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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 3

[Docket No. DHS–2009–0009]

RIN 1601–AA56

Petitions for Rulemaking, Amendment, or Repeal

AGENCY: Office of the Secretary, DHS.

ACTION: Interim final rule.

SUMMARY: Pursuant to the Administrative Procedure Act, the Department of Homeland Security (DHS or Department) is adopting a process under which interested persons may petition the Department to issue, amend, or repeal a rule.

DATES: This rule is effective August 22, 2016. Comments must be submitted on or before September 19, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2009–0009, by *one* of the following methods:

(1) *Federal eRulemaking Portal: http://www.regulations.gov.*

(2) *Fax:* 202–343–4011.

(3) *Mail:* Danny Fischler, OGC, Mail Stop 0485, 245 Murray Lane SW., Department of Homeland Security, Washington, DC 20528–0485.

Instructions: In your submission, please include the agency name and docket number for this rulemaking. We will post all comments, without any change and including any personal information contained in the comment, to the public docket. All comments may be read at *http://www.reguations.gov.* We strongly encourage commenters to submit comments through the Federal eRulemaking Portal, as it is the best way to ensure that we timely receive your comment.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Danny Fischler, Office of the General Counsel, U.S. Department of Homeland Security, 202–282–9822.

SUPPLEMENTARY INFORMATION:

I. Background

The Administrative Procedure Act (APA) requires that each agency give interested persons the right to petition the agency for the issuance, amendment, or repeal of a rule. 5 U.S.C. 553(e). Such a petition is known as a "rulemaking petition." DHS is adopting this rule to describe its procedures for receiving and responding to rulemaking petitions. Other federal agencies have adopted similar petition procedures. *See, e.g.,* 49 CFR 5.11, 5.13 (Department of Transportation); 24 CFR 10.20 (Department of Housing and Urban Development).

Two components of DHS have component-specific regulations governing rulemaking petitions. *See* 33 CFR 1.05–20 (U.S. Coast Guard); 44 CFR 1.17, 1.18 (Federal Emergency Management Agency (FEMA)). This rule leaves those regulations in place. This rule, however, will cover petitions related to all other components of the Department.

II. Discussion of the Rule

The discussion below provides a section-by-section description of the rule's provisions.

§ 3.1 Definitions

This section includes definitions that apply throughout the rule.

§ 3.3 Applicability

This section describes the applicability of this rule. Interested persons who wish to submit a rulemaking petition to DHS[1] must use the process outlined in this rule, except as follows:

(1) Interested persons who wish to submit a rulemaking petition on a matter related to the U.S. Coast Guard must submit their request to the U.S. Coast Guard pursuant to 33 CFR 1.05–20.

(2) Interested persons who wish to submit a rulemaking petition on a matter related to FEMA must submit their request to FEMA pursuant to 44 CFR 1.18.

In summary, the procedures described in this rule cover rulemaking petitions related to the rulemaking functions of all Department components, except for the U.S. Coast Guard and FEMA. Accordingly, the procedures described in this rule are the exclusive procedures for submitting a rulemaking petition related to the programs and authorities of U.S. Citizenship and Immigration Services, U.S. Customs and Border Protection (except for customs-revenue functions retained by the Department of the Treasury under sections 412 and 415 of the Homeland Security Act and Treasury Department Order No. 100–16[2]), U.S. Immigration and Customs Enforcement, the National Protection and Programs Directorate, and the Transportation Security Administration (TSA) among other Department components.

§ 3.5 Format and Mailing Instructions.

This section provides instructions for how to submit a rulemaking petition to the Department. The petitioner must clearly mark the rulemaking petition itself as a rulemaking petition. In addition, the petitioner must provide essential contact information—including a name and mailing address—so that the Department is able to reply to the petitioner. A petitioner may also submit additional information, such as telephone numbers, a fax number, and/or an email address.

The Department will accept petitions by mail (no courier service accepted) to the address(es) designated in the regulation. The Department will accept most petitions for rulemaking at a single address, however, petitioners may also submit petitions related to TSA-specific authorities directly to TSA, at the address in the regulation.

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[1] Except as provided below, reference to DHS in this rule also includes reference to DHS components.

[2] In November 2002, Congress passed the Homeland Security Act, and DHS formally came into being as a stand-alone, Cabinet-level department. The Homeland Security Act transferred the Customs Service to DHS, but did not transfer authority related to customs-revenue functions to DHS. Section 412 of the Homeland Security Act provided that the Treasury Department retained customs-revenue function authority, but that the Treasury Department could delegate this authority to DHS. By Treasury Department Order 100–16, Treasury delegated to the Secretary of Homeland Security the authority related to the customs revenue functions subject to certain exceptions. One of the exceptions provides that the Secretary of the Treasury retains the sole authority to approve regulations concerning certain specified customs-revenue subject matters. For further discussion of custom-revenue function authority, see the Appendix to 19 CFR part 0.

Section 3.5 contains the minimum procedural requirements for formatting and submitting a rulemaking petition under this regulation. In the interest of efficiency and sound public administration, DHS may decline to accept as a rulemaking petition any correspondence that does not meet these basic requirements.

§ 3.7 Content of a Rulemaking Petition

This section discusses the substantive content of a rulemaking petition. DHS encourages petitioners to submit rulemaking petitions that clearly explain what the petitioner is requesting, identify specific regulations, and include actionable data. DHS is better positioned to understand and respond to a rulemaking petition if it describes with reasonable particularity the rule that the petitioner is asking DHS to issue, amend, or repeal, as well as the factual and legal basis for the petition. The regulatory text highlights some items that would help DHS to understand and respond to a petition. DHS may deny the petition if it does not adequately describe what the petition is requesting and provide adequate support for the request.

§ 3.9 Responding to a Rulemaking Petition

The regulation describes DHS's process for responding to rulemaking petitions. This section states that DHS, in its discretion, may solicit public comment on a rulemaking petition. Following appropriate consideration of a rulemaking petition, DHS responds to the petition by letter or by **Federal Register** publication. The responsible official may grant or deny the petition, in whole or in part. Granting the petition means that DHS is initiating regulatory action.

By contrast to the final disposition outcomes described immediately above, DHS may also deny or summarily dismiss without prejudice any petition that is moot, premature, repetitive, frivolous, or which plainly does not warrant further consideration.

III. Regulatory Analyses

A. Administrative Procedure Act

This is a rule of agency organization, procedure, or practice under the Administrative Procedure Act, 5 U.S.C. 553(b)(A). Although the Administrative Procedure Act does not require DHS to provide a period of advance notice and opportunity for public comment, DHS invites public comment on this rule.

B. Executive Order 12866 Assessment (Regulatory Planning and Review)

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a significant regulatory action for the purposes of Executive Order 12866, as amended, and therefore review by the Office of Management and Budget is not necessary.

This rule describes how to petition DHS to issue, amend, or repeal a rule. The rule's qualitative benefits include additional transparency and accountability for the public. The rule imposes no additional costs on the public or the government.

C. Regulatory Flexibility Act

This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

D. Paperwork Reduction Act

This rule does not contain or modify any collections of information under the Paperwork Reduction Act. *See* 44 U.S.C. 3501 *et seq.*

List of Subjects in 6 CFR Part 3

Administrative practice and procedure.

For the reasons set forth in the preamble, DHS amends 6 CFR chapter I by adding part 3 to read as follows:

PART 3—PETITIONS FOR RULEMAKING

Sec.
3.1 Definitions.
3.3 Applicability.
3.5 Format and mailing instructions.
3.7 Content of a rulemaking petition.
3.9 Responding to a rulemaking petition.

Authority: 5 U.S.C. 301, 553(e); 6 U.S.C. 112.

§ 3.1 Definitions.

As used in this part:

Component means each separate organizational entity within the U.S. Department of Homeland Security (DHS) that reports directly to the Office of the Secretary.

DHS means the U.S. Department of Homeland Security, including its components.

Rulemaking petition means a petition to issue, amend, or repeal a rule, as described at 5 U.S.C. 553(e).

§ 3.3 Applicability.

(a) *General requirement.* Except as provided in paragraph (b) of this section, this part prescribes the exclusive process for interested persons to submit a rulemaking petition on a matter within DHS's jurisdiction.

(b) *Exceptions*—(1) *U.S. Coast Guard.* This part does not apply to any petition for rulemaking directed to the U.S. Coast Guard. Such petitions are governed by 33 CFR 1.05–20.

(2) *Federal Emergency Management Agency.* This part does not apply to any petition for rulemaking directed to the Federal Emergency Management Agency. Such petitions are governed by 44 CFR 1.18.

§ 3.5 Format and mailing instructions.

(a) *Format.* A rulemaking petition must include in a prominent location—

(1) The words "Petition for Rulemaking" or "Rulemaking Petition;" and

(2) The petitioner's name and a mailing address, in addition to any other contact information (such as telephone number or email) that the petitioner chooses to include.

(b) *Mailing instructions*—(1) *General mailing address.* Any interested person may submit a rulemaking petition by sending it to the following address: U.S. Department of Homeland Security, Office of the General Counsel, Mail Stop 0485, Attn: Regulatory Affairs Law Division, 245 Murray Lane SW., Washington, DC 20528–0485.

(2) *Transportation Security Administration mailing address.* Any interested person may submit a rulemaking petition regarding a Transportation Security Administration program or authority directly to the Transportation Security Administration by sending it to the following address: Transportation Security Administration, Office of the Chief Counsel, TSA–2, Attn: Regulations and Security Standards Division, 601 South 12th Street, Arlington, VA 20598–6002.

(3) DHS does not accept rulemaking petitions delivered by courier.

§ 3.7 Content of a rulemaking petition.

(a) DHS will be better positioned to understand and respond to a rulemaking petition if the petition describes with reasonable particularity the rule that the petitioner is asking DHS to issue, amend, or repeal, and the factual and legal basis for the petition. For instance, DHS would be better able to understand and respond to a petition that includes—

(1) A description of the specific problem that the requested rulemaking would address;

(2) An explanation of how the requested rulemaking would resolve this problem;

(3) Data and other information that would be relevant to DHS's consideration of the petition;

(4) A description of the substance of the requested rulemaking; and

(5) Citation to the pertinent existing regulations provisions (if any) and pertinent DHS legal authority for taking action.

(b) [Reserved]

§ 3.9 Responding to a rulemaking petition.

(a) *Public procedure.* DHS may, in its discretion, seek broader public comment on a rulemaking petition prior to its disposition under this section.

(b) *Disposition.* DHS may respond to the petition by letter or by **Federal Register** publication. DHS may grant or deny the petition, in whole or in part.

(c) *Grounds for denial.* DHS may deny the petition for any reason consistent with law, including, but not limited to, the following reasons: The petition has no merit, the petition is contrary to pertinent statutory authority, the petition is not supported by the relevant information or data, or the petition cannot be addressed because of other priorities or resource constraints.

(d) *Summary disposition.* DHS may, by written letter, deny or summarily dismiss without prejudice any petition that is moot, premature, repetitive, or frivolous, or that plainly does not warrant further consideration.

Jeh Charles Johnson,

Secretary.

[FR Doc. 2016–16984 Filed 7–20–16; 8:45 am]

BILLING CODE 9110–9B–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–7203; Airspace Docket No. 15–ASO–14]

Establishment of Class D Airspace: Destin, FL; Duke Field, Eglin AFB, FL; Revocation of Class D Airspace; Eglin AF Aux No 3 Duke Field, FL; and Amendment of Class D and E Airspace; Eglin Air Force Base, FL; Eglin Hurlburt Field, FL; and Crestview, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Delay of effective date, disposition of comment.

SUMMARY: This action changes the effective date of a final rule published June 21, 2016, establishing Class D airspace at Destin, FL, providing the controlled airspace required for the Air Traffic Control Tower at Destin Executive Airport, (formerly Destin-Fort Walton Beach Airport). This allows for the disposition of comments received but not acknowledged prior to publishing the final rule. This action addresses a comment received, but not previously acknowledged.

DATES: This correction is effective 0901 UTC, November 10, 2016, and the effective date of the rule amending 14 CFR part 71, published on June 21, 2016 (81 FR 40165), is delayed to 0901 UTC November 10, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

History

The **Federal Register** published a final rule (81 FR 40165, June 21, 2016) Docket No. FAA–2015–7203, establishing Class D airspace at Destin Executive Airport, Destin, FL; and Duke Field Eglin AFB, FL; removing Class D airspace at Eglin AF Aux No 3 Duke Field; and amending Class D and Class E airspace at Eglin Air Force Base, FL. Further review revealed one comment was received, but not addressed. This action corrects that error.

Class D and E airspace designations are published in paragraphs 5000, 6002, and 6005, respectively, of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, in the **Federal Register** of June 21, 2016 (81 FR 40165) FR Doc. FAA–2015–7203, Establishment of Class D Airspace: Destin, FL; Duke Field, Eglin AFB, FL; Revocation of Class D Airspace; Eglin AF Aux No 3 Duke Field, FL; and Amendment of Class D and E Airspace; Eglin Air Force Base, FL; Eglin Hurlburt Field, FL; and Crestview, FL, is corrected as follows:

On page 40165, column 3, on line 37, Remove the following text: "July 21" and in its place, "November 10".

On page 40166, column 1, beginning on line 47, remove the following text: "No comments were received" and in its place add, "One comment was received, from the Aircraft Owners and Pilots Association, in support of the rulemaking. The commenter requested the FAA make clear all publications, so as to relay the proper information concerning this airspace to the flying public."

Issued in College Park, Georgia, on July 15, 2016.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–17246 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 56

[Docket No. FDA–2015–N–5052]

Administrative Actions for Noncompliance; Lesser Administrative Actions; Confirmation of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of August 17, 2016, for the direct final rule that appeared in the **Federal Register** of April 4, 2016. The direct final rule amends the regulations describing lesser administrative actions that may be imposed on an Institutional Review Board (IRB) that has failed to comply with applicable regulations. We are taking this action to ensure clarity and improve the accuracy of the regulations. This document confirms the effective date of the direct final rule.

DATES: Effective date of final rule published in the **Federal Register** of April 4, 2016 (81 FR 19033), confirmed: August 17, 2016.

FOR FURTHER INFORMATION CONTACT: Sheila Brown, Office of Good Clinical Practice, Office of Special Medical Programs, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5129, Silver Spring, MD 20993–0002, 301–796–6563.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 4, 2016 (81 FR 19033), FDA solicited comments concerning the direct final rule for a 75-day period ending June 20, 2016. FDA stated that the effective date of the direct final rule would be on August 17, 2016, no later than 60 days after the end of the comment period, unless any significant adverse comment was submitted to FDA during the comment period. FDA did not receive any significant adverse comments.

Authority: 21 U.S.C. 321, 343, 346, 346a, 348, 350a, 350b, 351, 352, 353, 355, 360, 360c–360f, 360h, 360i, 360j, 360hh–360ss, 371, 379e, 381; 42 U.S.C. 216, 241, 262. Accordingly, the amendment issued thereby is effective.

Dated: July 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–17186 Filed 7–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 23

[K00103 12/13 A3A10; 134D0102DR-DS5A300000–DR.5A311.IA000113]

RIN 1076–AF25

Indian Child Welfare Act Proceedings

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Announcement of training sessions.

SUMMARY: The Department of the Interior (Department) is hosting training sessions on its regulations implementing the Indian Child Welfare Act (ICWA) for federally recognized Indian Tribes and for State court and child welfare agency personnel. This document announces the dates and locations of the training sessions.

DATES: See the **SUPPLEMENTARY INFORMATION** section of this document for dates of the training sessions.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section of this document for addresses of the training sessions.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Burton, ICWA Specialist, Office of Indian Services, Bureau of Indian Affairs, (202) 513–7610, *debra.burton@bia.gov,* or Ms. Elizabeth Appel, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: On June 14, 2016, the Department published a final rule on Indian Child Welfare Act proceedings, in implementation of ICWA. *See* 81 FR 38778. To help those affected by the final rule—in particular States courts, State agencies, Tribes, private agencies—to prepare for the December 12, 2016, effective date of the final rule, the Department is offering several training sessions on the final rule.

The following chart shows the current schedule for training sessions. Please check the following Web site for updates: *http://www.bia.gov/WhoWeAre/BIA/OIS/HumanServices/index.htm.* This Web site also includes the training materials and the full text of the regulation.

Date	Time	Type	Location
Monday, August 15, 2016	2:00 p.m.–4:00 p.m. (ET)	Webinar	Please see Web site listed above for call-in and log-in information.
Tuesday, August 16, 2016	2:00 p.m.–4:00 p.m. (ET)	Webinar	Please see Web site listed above for call-in and log-in information.
Thursday, August 18, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	St. Paul, Minnesota—Doubletree St. Paul, 411 Minnesota Street, St. Paul, MN 55101.
Wednesday, August 24, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Oklahoma City, OK—Supreme Court of Oklahoma, Judicial Center Auditorium, 2100 North Lincoln, Suite 3, Oklahoma City, OK 73105.
Wednesday, September 7, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Sacramento, CA—Secretary of State Auditorium, 1500 11th Street, Sacramento, CA 95814.
Thursday, September 15, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Albany, NY—Empire State Plaza Convention Center, Meeting Rooms 2 & 3, Albany, NY 12242.
Thursday, September 22, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Pierre, SD—Best Western Ramkota Hotel & Convention Center, Amphitheater II, 920 West Sioux Ave., Pierre, SD 57501.
Wednesday, October 5, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Anchorage, AK—Embassy Suites Hilton, Imagine Ballroom, 600 E. Benson Blvd., Anchorage, AK 99503.
Wednesday, October 19, 2016	8:30 a.m.–4:00 p.m. (Local Time).	On-Site	Olympia, WA—Legislative Building on the Capitol Campus, Columbia Room, Sid Snyder and Cherry Lane SW., Olympia, WA 98504–1034.
Wednesday, November 2, 2016	9:30 a.m.–5:00 p.m. (Local Time).	On-Site	Phoenix, AZ—Burton Barr Central Library, The Pulliam Auditorium, 1221 N. Central Avenue, Phoenix, AZ 85004.
Tuesday, November 15, 2016	2:00 p.m.–4:00 p.m. (ET)	Webinar	Please see Web site listed above for call-in and log-in information.

Date	Time	Type	Location
Thursday, November 17, 2016 ..	2:00 p.m.–4:00 p.m. (ET)	Webinar	Please see Web site listed above for call-in and log-in information.

At the on-site sessions, trainers will present material during the morning hours, to allow sufficient additional time for discussion.

Each session is open to Tribes, State child welfare agency personnel, and State court personnel. Separate training sessions are being planned for others interested in the new rule and will be announced at a later date. Because space is limited, we ask that you RSVP to *comments@bia.gov* for each session you plan to attend by submitting your name and the location (or webinar) you plan to attend. Please also note that some on-site locations are at government facilities that may include security screening, and plan accordingly.

Dated: July 13, 2016.

Lawrence S. Roberts,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2016–17269 Filed 7–20–16; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2015–0011; T.D. TTB–139; Ref: Notice No. 155]

RIN 1513–AC22

Establishment of the Tip of the Mitt Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 2,760-square mile "Tip of the Mitt" viticultural area in all or portions of Charlevoix, Emmet, Cheboygan, Presque Isle, Alpena, and Antrim Counties in Michigan. The viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective August 22, 2016.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary of the Treasury has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Tip of the Mitt Petition

TTB received a petition from the Straits Area Grape Growers Association, on behalf of winery and vineyard owners in the northern portion of Michigan's Lower Peninsula, proposing the establishment of the "Tip of the Mitt" AVA. The proposed AVA contains approximately 2,760 square miles, and there are 41 commercially-producing vineyards covering a total of 94 acres distributed throughout the proposed AVA, along with 8 wineries. According to the petition, an additional 48 acres of vineyards and 4 new wineries are planned for the near future. The proposed Tip of the Mitt AVA is not located within any established AVA.

According to the petition, the distinguishing features of the proposed Tip of the Mitt AVA include its climate and soils.

The proposed AVA is bordered by Grand Traverse Bay, Little Traverse Bay, and Lake Michigan to the west; the Straits of Mackinac to the north; and Lake Huron to the east. The presence of large bodies of water on three sides of the proposed AVA has a moderating effect on the climate, providing slightly warmer annual high temperatures than are found south of the proposed AVA. The proposed Tip of the Mitt AVA also has fewer days with high temperatures below both 0 and 32 degrees Fahrenheit than the region to the south, meaning that temperatures do not drop low enough to cause severe damage to cold-hardy grape varietals such as Marechal Foch and Leon Millot. The proposed AVA also has a longer growing season and higher growing degree day accumulations than the region to the south, providing ample time for mid-to-late season grape varietals such as Frontenac to ripen.

With respect to soils, the proposed Tip of the Mitt AVA predominately contains coarse-textured glacial till and Lacustrine sand and gravel. Soils that contain either glacial outwash sand or ice-contact sand and gravel are present only in small amounts within the proposed AVA and are more common in the region to the south. The soils within the proposed AVA have high levels of organic matter, which prevents nutrients from leaching rapidly. The soils also have high water-holding capacities, so vineyard owners take steps to reduce moisture accumulation, such as planting cover crops between rows to absorb excess water. By contrast, the soils in the region south of the proposed AVA have lower levels of organic matter and lower water-holding capacities. Finally, the soils within the proposed AVA do not heat as quickly in the spring as soils that contain high levels of sand and gravel, so bud-break is naturally delayed until the risk of late spring frosts has passed.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 155 in the **Federal Register** on August 6, 2015 (80 FR 46883), proposing to establish the Tip of the Mitt AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the features of the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 155.

In Notice No. 155, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on October 5, 2015. TTB received 14 comments in response to Notice No. 155. All 14 commenters supported the establishment of the proposed AVA. Commenters included self-identified local winery and vineyard owners and operators; members of the Straits Area Grape Growers Association; the Corporate and Community Education Training Coordinator for North Central Michigan College in Petoskey, MI; an Agricultural Innovation Counselor with Michigan State University's Product Center; and several individuals who did not describe any affiliation with the wine industry. Many of the commenters stated that the region's climate and the ability to grow a variety of cold-hardy grape varietals distinguish the proposed AVA from the region to the south. Several of the commenters supported the proposed AVA as a way to showcase the region's wines and promote tourism to the region. TTB did not receive any comments opposing the establishment of the proposed AVA.

Proposed Name Change

One commenter (comment 6) supported the establishment of the proposed AVA but did not support the proposed name. The commenter stated that he believed "Tip of the Mitt" was a "whimsical" name that is "Michigan slang" and "doesn't provide the public with an accurate geographical description" of where the proposed AVA is located. The commenter suggested "The Straits" or "Little Traverse" as alternate names for the proposed AVA, but did not provide any evidence to support the alternative AVA names.

Section 9.12(a)(1) of TTB regulations requires, among other things, that: (1) A proposed AVA name be currently and directly associated with an area in which viticulture exists; (2) the proposed name apply to all of the area within the proposed AVA; and (3) the region of the proposed AVA be known nationally or locally by the proposed name. Although "Little Traverse" and "The Straits" both refer to geographical features within the proposed AVA, the commenter did not provide evidence to show that the entire region of the proposed AVA is known locally or nationally by either of those names. Additionally, "The Straits" could apply to any of the numerous straits in the United States and is therefore unsuitable as an AVA name without a geographical modifier. Therefore, TTB does not believe that either "Little Traverse" or "The Straits" meets the regulatory requirements for an AVA name.

TTB believes that the petition to establish the Tip of the Mitt AVA provided sufficient evidence to demonstrate that the name "Tip of the Mitt" is widely used throughout the proposed AVA to describe the region. The petition included names of local businesses and organizations and regional events that use the phrase in their names. Therefore, TTB has determined that "Tip of the Mitt" meets the regulatory requirements for an AVA name as set forth in § 9.12(a).

TTB Determination

After careful review of the petition and the comments received, TTB finds that the evidence provided by the petitioner supports the establishment of the Tip of the Mitt AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the "Tip of the Mitt" AVA in the northern portion of Michigan's Lower Peninsula, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, "Tip of the Mitt," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name "Tip of the Mitt" in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Tip of the Mitt AVA will not affect any existing AVA. The establishment of the Tip of the Mitt AVA will allow vintners to use "Tip of the Mitt" as an appellation of origin for wines made primarily from grapes grown within the Tip of the Mitt AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9.257 to read as follows:

§ 9.257 Tip of the Mitt.

(a) *Name.* The name of the viticultural area described in this section is "Tip of the Mitt". For purposes of part 4 of this chapter, "Tip of the Mitt" is a term of viticultural significance.

(b) *Approved maps.* The 2 United States Geological Survey (USGS) 1:250,000 scale topographic maps used to determine the boundary of the Tip of the Mitt viticultural area are titled:

(1) Cheboygan, Michigan, 1955; revised 1981; and

(2) Alpena, Mich., US–Ontario, Can.; 1954.

(c) *Boundary.* The Tip of the Mitt viticultural area is located in all or portions of Charlevoix, Emmet, Cheboygan, Presque Isle, Alpena, and Antrim Counties in Michigan. The boundary of the Tip of the Mitt viticultural area is as described below:

(1) The beginning point is on the Cheboygan map, at the point where the Mackinac Bridge intersects the southern shoreline of the Straits of Mackinac. From the beginning point, proceed east-southeasterly along the shoreline of the South Channel of the Straits of Mackinac and Lake Huron, crossing onto the Alpena map and continuing to follow the Lake Huron shoreline and then the Thunder Bay shoreline to the point where the Thunder Bay shoreline intersects the common T31N/T30N township line south of the city of Alpena and north of Bare Point; then

(2) Proceed northwesterly in a straight line to the intersection of an unnamed medium-duty road known locally as Long Rapids Road and an unnamed light-duty road known locally as Cathro Road; then

(3) Proceed west in a straight line to the line's intersection with State Highway 65 and an unnamed light-duty road known locally as Hibner Road; then

(4) Proceed northwesterly in a straight line to the intersection of the Presque Isle, Alpena, and Montmorency county lines; then

(5) Proceed west along the southern boundary of Presque Isle County, crossing onto the Cheboygan map, to the point where the Presque Isle county line becomes the southern boundary of Cheboygan County, and continuing along the Cheboygan county line to the intersection of the Cheboygan county line with the eastern boundary of Charlevoix County; then

(6) Proceed south then east along the Charlevoix county line to the intersection of the Charlevoix county line with the eastern boundary of Antrim County; then

(7) Proceed south along the Antrim county line to the point where the county line turns due east; then

(8) Proceed west in a straight line to the eastern shoreline of Grand Traverse Bay; then

(9) Proceed north-northeasterly along the shorelines of Grand Traverse Bay, Lake Michigan, Little Traverse Bay, Sturgeon Bay, Trails End Bay, and the Straits of Mackinac, returning to the beginning point.

Signed: June 29, 2016.

John J. Manfreda,

Administrator.

Approved: July 10, 2016.

Timothy E. Skud,

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2016–17274 Filed 7–20–16; 8:45 am]

BILLING CODE 4310–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0467]

RIN 1625–AA00

Safety Zone; Tennessee River 385.0–387.0; Scottsboro, AL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for all waters of the Tennessee River beginning at mile marker 385.0 and ending at mile marker 387.0. This safety zone is necessary to protect persons, property, and infrastructure from potential damage and safety hazards associated with the demolition of the B.B. Comer Bridge. This rulemaking would prohibit persons and vessels from entering the safety zone area unless authorized by the Captain of the Port Ohio Valley or a designated representative.

DATES: This rule is effective without actual notice from July 21, 2016 until August 1, 2016. For the purposes of enforcement, actual notice will be used from May 31, 2016 until July 21, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0467 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Ashley Schad, MSD Nashville, Nashville, TN, at 615–736–5421 or at *Ashley.M.Schad@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On May 27, 2016, the Contract Drilling and Blasting representative submitted a CG–4260 to the Coast Guard for blasting operations that would take place from May 31, 2016 to August 1, 2016 during the demolition of the B.B. Comer Bridge on the Tennessee River at mile marker 386.0. The blasting operations will take place at various times and dates determined by environmental factors. The Captain of the Port Ohio Valley (COTP) has determined that this safety zone is necessary to protect persons, property, and infrastructure before, during, and after blasting operations.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard was informed of this project in early May, but full details of blasting operations on or over a Navigable Waterway were not provided until May 27, 2016 with a start date of May 31, 2016. The notification of blasting requirements were made only a few days before the project is scheduled to begin. Immediate action is needed to respond to potential safety hazards related to blasting operations on or over this navigable waterway. It is impracticable to publish an NPRM because we must establish this safety zone by May 31, 2016.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to establish a safety zone to protect persons, property, and infrastructure whenever blasting operations take place on the B.B. Comer Bridge from May 31, 2016 until August 1, 2016.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Ohio Valley (COTP) has determined the need to protect persons, property, and infrastructure during the blasting operations taking place on the B.B. Comer Bridge on the Tennessee River at mile marker 386.0. This rule is needed to protect personnel, vessels, and these navigable waters before, during, and after blasting operations take place.

IV. Discussion of the Rule

The Captain of the Port Ohio Valley is establishing this safety zone from May 31, 2016 through August 1, 2016, for all waters of the Tennessee River beginning at mile marker 385.0 and ending at mile marker 387.0. The periods of enforcement will be 30 minutes prior to, during, and 30 minutes after any blasting operation that takes place on the B.B. Comer Bridge. The Coast Guard was informed that there would be between 9 and 12 blasting operations that will take place during daylight hours and will last approximately one hour on each occurrence. Safety zone enforcement times will be announced via Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), or through other public notice and at least 12–24 hour notice will be provided before each enforcement period. Any deviation from this rule are prohibited unless specifically authorized by the COTP Ohio Valley, or a designated representative. Deviations requests will be considered and reviewed on a case-by-case basis. The COTP Ohio Valley may be contacted by telephone at 1–800–253–7465 or can be reached by VHF–FM channel 16.

The duration of each safety zone enforcement period is intended to protect persons, property, and infrastructure from safety hazards associated with blasting operations. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are establishing appears at the end of this document.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive order related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone.

This safety zone prohibits transit on the Tennessee River from mile 385.0 to mile 387.0, 30 minutes prior to, during, and 30 minutes after blasting operations on the B.B. Comer bridge from May 31, 2016 through August 1, 2016. Broadcast Notices to Mariners and Local Notices to Mariners will also inform the community of the safety zone enforcement periods through BNM, LNM and other forms of public notice so that they may plan accordingly for each short enforcement period restricting transit. Vessel traffic may request permission from the COTP Ohio Valley or a designated representative to enter the restricted area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone area may be small entities, for the reasons stated in section V.A above this rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves area safety zone that would prohibit entry to unauthorized vessels. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the U.S. Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231.

■ 2. A new temporary § 165.35T08–0467 is added to read as follows:

§ 165.35T08–0467 Safety Zone; Tennessee River Mile 385.0 to 387.0 Scottsboro, AL.

(a) *Location.* All waters of the Tennessee River beginning at mile marker 385.0 and ending at mile marker 387.0 Scottsboro, AL.

(b) *Effective date.* This rule is effective from May 31, 2016 through August 1, 2016.

(c) *Periods of Enforcement.* This rule will be enforced from 30 minutes prior to and 30 minutes after all blasting operations on the B.B. Comer Bridge. The Captain of the Port Ohio Valley or a designated representative will inform the public through Broadcast Notice to Mariners (BNM), Local Notices to Mariners (LNM), or through other public notice and at least 12–24 in advance of each enforcement period.

(d) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited unless authorized by the Captain of the Port Ohio Valley or a designated representative.

(2) Persons or vessels requiring entry into or passage through the area must request permission from the Captain of the Port Ohio Valley or a designated representative. U.S. Coast Guard Sector Ohio Valley may be contacted on VHF Channel 13 or 16, or at 1–800–253–7465.

Dated: May 31, 2016.

R. V. Timme,

Captain, U. S. Coast Guard, Captain of the Port Ohio Valley.

[FR Doc. 2016–17333 Filed 7–20–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–0648]

RIN 1625–AA00

Safety Zone; Hudson River, Edgewater, NJ.

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters of the Hudson River in the vicinity of Edgewater, NJ. This zone is intended to restrict vessels from a portion of the Hudson River due to the presence of a dielectric oil leak from a submerged power cable, and the hazards associated with the cable repair vessels. This temporary safety zone is necessary to protect people and vessels from the hazards associated with this event. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port New York.

DATES: This rule is effective without actual notice from July 21, 2016 through July 10, 2017. For the purposes of enforcement, actual notice will be used from July 10, 2016 through July 21, 2016.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0648 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Kristina Pundt, Waterways Management Division, U.S. Coast Guard Sector New York; telephone 718–354–4352, email *Kristina.H.Pundt@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NAD	83 North American Datum of 1983
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

On January 2, 2016, the Coast Guard received notification of a dielectric oil release from a submerged power cable in the Hudson River in the vicinity Edgewater, NJ. In response, on February 5, 2016, the Coast Guard published a temporary final rule at 33 CFR 165–T01.0028 (81 FR 246181) establishing a safety zone to be enforced until July 9, 2016 or until completion of cleanup and cable repairs. On May 29, 2016, the Coast Guard received notification that cleanup operations and cable repairs were completed. The Coast Guard received notification of another dielectric oil release from a submerged power cable in the Hudson River in the vicinity of Edgewater, NJ on June 28, 2016.

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. Waiting for a notice and comment period to run would inhibit the Coast Guard from protecting the public and vessels from the possible hazards associated with this dielectric oil leak and the hazards associated with the cable repairs.

We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register**. For the same reasons as discussed in the preceding paragraph, waiting for a 30 day notice and comment period to run would be impracticable.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port New York (COTP) has determined that a temporary safety zone is necessary to ensure the safety of vessels from the hazards associated with this dielectric oil leak and power cable repairs.

IV. Discussion of the Rule

This rule establishes a safety zone from July 10, 2016 through July 10, 2017. The safety zone will cover all navigable waters of the Hudson River extending 1700 feet from the New Jersey shoreline and approximately 460 feet on either side of the charted power cable between Edgewater, NJ and W 110th Street, Manhattan, NY.

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the COTP or a designated representative. Vessel operators must contact the COTP or an on-scene representative to obtain permission to transit through this safety zone. The COTP or an on-scene representative may be contacted by VHF Channel 16.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, and will not adversely alter the budget of any grant or loan recipients. Vessel traffic will be able to safely transit around this safety zone. This safety zone only affects a small-designated area of the Hudson River waterway. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 and publish the information in the Local Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone that will prohibit entry within the dielectric oil spill, cleanup, and power cable repair area, and is therefore categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination will be available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–0648 to read as follows:

§ 165.T01–0648 Safety Zone: Hudson River, Edgewater, NJ.

(a) *Location.* The following area is a temporary safety zone: All U.S. navigable waters of the Hudson River bound by the following points: 40°48′40.088″ N., 073°58′53.026″ W.; thence to 40°48′34.267″ N., 073°58′37.096″ W.; thence to 40°48′26.404″ N., 073°58′42.270″ W.; thence to 40°48′33.882″ N., 073°59′01.955″ W., thence along the western shoreline to the point of origin. All coordinates are based on the NAD 83.

(b) *Enforcement period.* The safety zone described in paragraph (a) of this section will be enforced from July 10, 2016 through July 10, 2017, unless terminated sooner by the COTP.

(c) *Regulations.* (1) In accordance with the general regulations in 33 CFR 165.23, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the COTP or a designated on scene representative.

(3) An ''on-scene representative'' of the COTP is any Coast Guard commissioned, warrant or petty officer or a Federal, State or local law enforcement officer designated by or assisting the COTP to act on his behalf.

(4) Vessel operators must contact the COTP via the Command Center to obtain permission to enter or operate within the safety zone. The COTP may be contacted via VHF Channel 16 or at (718) 354–4353. Vessel operators given permission to enter or operate within the safety zone must comply with all directions given to them by the COTP, via the Command Center or an on-scene representative.

Dated: July 8, 2016.

M.H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2016–17332 Filed 7–20–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED–2016–OSERS–0024; CFDA Number: 84.373A.]

Final Priority and Requirements—Technical Assistance on State Data Collection Program—Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data To Support Implementation of States' Identified Measurable Result(s)

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final priority and requirements.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority and requirements under the Technical Assistance on State Data Collection program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2016 and later years. We take this action to focus attention on an identified need to address national, State, and local assessment issues related to students with disabilities, including students with disabilities who are also English Learners (ELs).

DATES: This priority and these requirements are effective August 22, 2016.

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW., Room 5163, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7334 or by email: *david.egnor@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet the Individuals with Disabilities Education Act (IDEA) data collection and reporting requirements. Funding for this program is authorized under section 611(c)(1) of IDEA, which gives the Secretary the authority to reserve funds appropriated under Part B of the IDEA to provide technical assistance activities authorized under section 616(i) of IDEA. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of IDEA section 616 are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide technical assistance, where needed, to improve the capacity of States to meet the data collection requirements under IDEA Parts B and C, which include the data collection and reporting requirements in sections 616 and 618 of IDEA.

Program Authority: 20 U.S.C. 1411(c) and 1416(i).

Applicable Program Regulations: 34 CFR 300.702.

We published a notice of proposed priority and requirements for this program in the **Federal Register** on March 23, 2016 (81 FR 15491). That notice contained background information and our reasons for proposing the particular priority and requirements.

Public Comment: In response to our invitation in the notice of proposed priority and requirements, we did not receive any comments on the proposed priority and requirements. However, as a result of our further review of the proposed priority and requirements since publication of the notice of proposed priority and requirements, we have made changes as follows:

Analysis of Comments and Changes:

Comment: None.

Discussion: As a result of our further review, we realized that a few items in the priority could benefit from further clarification. First, we have changed the title of the priority to be more descriptive. Second, we clarified that references to "assessment" in the priority include both formative and summative assessments. Third, to clarify how we intend for applicants to address logic models, we deleted some references to "logic model" and instead included a note directing the reader to additional information on the meaning of the term.

Changes: We have changed the title of the priority to: "Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s)." We have modified, as appropriate, references to assessment describing "formative and summative" assessments, deleted references to "logic model" and inserted a note directing the reader to additional information on the meaning of the term, and made other technical changes.

FINAL PRIORITY: Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s).

Priority: The purpose of this priority is to (1) assist States in analyzing and using assessment data to better achieve the States' Identified Measurable Result(s) (SIMR) as described in their IDEA Part B State Systemic Improvement Plans (SSIPs), and (2) assist State efforts to provide technical assistance (TA) to local educational agencies (LEAs) in analyzing and using State and districtwide assessment data to better achieve the SIMR, as appropriate.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of State educational agency (SEA) personnel to analyze and use assessment data to better achieve the SIMR described in the IDEA Part B SSIP, including using assessment data to evaluate and improve educational policy, inform instructional programs, and improve instruction for students with disabilities; and

(b) Increased capacity of SEA personnel to provide TA to LEAs in the analysis and use of State and districtwide assessment data to improve instruction of students with disabilities and better achieve the SIMR.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL REQUIREMENTS: The Assistant Secretary establishes the following requirements for this program. We may apply these requirements in any year in which this program is in effect.

Requirements: Applications that:

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will—

(1) Address the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities. To meet this requirement the applicant must—

(i) Present applicable national, State, and local data demonstrating the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Demonstrate knowledge of current educational issues and policy initiatives related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(iii) Describe the current level of implementation related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities.

(2) Improve the analysis and use of formative and summative assessment data to improve teaching and learning for students with disabilities.

(b) Demonstrate, in the narrative section of the application under "Quality of the Project Services," how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients (*e.g.,* by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: While section 77.1(c) of the Education Department General Administrative Regulations (EDGAR) contains a definition for "logic model," the Office of Special Education Programs (OSEP), based upon its experience in this area, has been using the above definition as standard language for the OSEP Technical Assistance and Dissemination (TA&D) program priorities. OSEP's definition establishes a difference between logic models and conceptual frameworks whereas 34 CFR 77.1(c) considers the model to be one and the same. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on the effectiveness of analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(ii) How the proposed project will incorporate current practices supported by evidence in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Its proposed approach to universal, general TA,[1] which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[2] which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[3] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA and LEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA and LEA levels;

(C) Its proposed plan for assisting SEAs (and LEAs, in conjunction with SEAs) to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (*e.g.,* SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the collection, analysis, and use of formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(E) Its proposed plan for collaborating and coordinating with Department-funded TA investments and the Institute of Education Sciences (IES) research and development investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

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[1] "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[2] "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[3] "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[4] the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.*, preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and progress toward achieving intended outcomes, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and a half day project directors' meeting in Washington, DC, during each year of the project period;

(iii) Three trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3 + 2 review meeting in Washington, DC, during the last half of the second year of the project period;

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[4] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.*, those awarded $500,000 or more per year and required to participate in the 3 + 2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project: In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this priority and these requirements, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the TA projects have been well-established over the years in that other TA projects have been completed successfully. The priority announced in this notice will improve the capacity of States to meet the IDEA data collection and reporting requirements, including (1) increased capacity of SEA personnel to analyze and use assessment data to better achieve the SIMR described in the IDEA Part B SSIP through means such as the use of formative and summative assessment data to evaluate and improve educational policy, inform instructional programs and improve instruction for students with disabilities; and (2) increased capacity of SEA personnel to provide TA to LEAs in the analysis and use of State and districtwide assessment data to improve instruction of students with disabilities and better achieve the SIMR.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have

Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 18, 2016.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–17323 Filed 7–20–16; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0241; FRL–9948–08–Region 9]

Approval of California Air Plan Revisions, El Dorado County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the El Dorado County Air Quality Management District (EDCAQMD) portion of the California State Implementation Plan (SIP). We are approving a local emergency episode plan that describes actions that EDCAQMD must take in the event of dangerously high ambient ozone concentrations levels under the Clean Air Act (CAA or the Act).

DATES: This rule is effective on September 19, 2016 without further notice, unless the EPA receives adverse comments by August 22, 2016. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0241 at *http://www.regulations.gov,* or via email to *Steckel.Andrew@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, EPA Region IX, (415) 947 4115, *Steckel.Andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to the EPA.

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I. The State's Submittal

A. What plan did the State submit?

Table 1 lists the plan addressed by this action with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED PLAN

Local agency	Plan title	Adopted	Submitted
EDCAQMD	Ozone Emergency Episode Plan	01/12/16	04/06/16

On April 21, 2016, the EPA determined that EDCAQMD's Ozone Emergency Episode Plan submittal met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this plan?

There are no previous versions of this plan adopted by EDCAQMD or approved by EPA in the SIP.

C. What is the purpose of the submitted plan?

The CAA requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for Ozone and five other pollutants that are harmful to public health and the environment. Each state is required to submit to the EPA, within three years after the promulgation of a primary or secondary NAAQS, or any revision thereof, an infrastructure SIP revision that provides for the implementation, maintenance, and enforcement of such NAAQS. CAA section 110(a)(2) describes the contents required of such a plan that constitute the "infrastructure" of a state's air quality management program. The EDCAQMD Ozone Emergency Episode Plan is intended to fulfill the CAA § 110(a)(2)(G) infrastructure SIP requirement.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the plan?

SIPs must be enforceable (see CAA section 110(a)(2)) and SIP revisions are restricted in how they can relax approved SIPs. This plan must also meet the infrastructure SIP requirements of CAA section 110(a)(2)(G) and EPA's implementing regulations found in 40 CFR part 51, subpart H (51.150 through 51.153).

Guidance that we used to evaluate section 110(a)(2) CAA requirements includes: "Guidance Document for Infrastructure State Implementation Plan Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)", EPA (September 2013).

B. Does the plan meet the evaluation criteria?

We believe this plan is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations and infrastructure SIPs. The EPA's technical support document (TSD) has more information about this plan and our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, the EPA is fully approving the submitted plan because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted plan. If we receive adverse comments by August 22, 2016, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 19, 2016. This will incorporate the plan into the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this plan and if that provision may be severed from the remainder of the plan, the EPA may adopt as final those provisions of the plan that are not the subject of an adverse comment.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the EDCAQMD plan described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available electronically through *www.regulations.gov* and in hard copy at U.S. Environmental Protection Agency Region IX (AIR4), 75 Hawthorne Street, San Francisco, CA, 94105–3901.]

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: June 13, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(473) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(473) A new regulation for the following AQMD was submitted on April 6, 2016 by the Governor's designee.

(i) Incorporation by reference.

(A) El Dorado County Air Quality Management District.

(*1*) "Ozone Emergency Episode Plan," adopted January 12, 2016.

* * * * *

[FR Doc. 2016–17177 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0583; FRL–9949–24–Region 9]

Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District, Riverside County Air Pollution Control District, and San Bernardino County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve rescissions from the Mojave Desert Air Quality Management District (MDAQMD) portion of the California State Implementation Plan (SIP), as it applies to rules approved into the SIP for the Riverside County Air Pollution Control District (RCAPCD) and San Bernardino County Air Pollution Control District (SBCAPCD). These revisions concern superseded New Source Review (NSR) rules. We are approving the rescission of rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on September 19, 2016 without further notice, unless the EPA receives adverse comments by August 22, 2016. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2015–0583 at *http://www.regulations.gov,* or via email to *R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407, *lawrence.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" refer to the EPA.

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I. Background

The California Air Resources Board (CARB) submitted Riverside County Air Pollution Control District (RCAPCD) and San Bernardino County Air Pollution Control District (SBCAPCD) Rules 213, 213.1, and 213.2, which address Clean Air Act (CAA) requirements for New Source Review (NSR) programs, to the EPA on June 6, 1977 for inclusion in the California SIP. The EPA approved RCAPCD Rules 213, 213.1, and 213.2 and SBCAPCD Rules 213, 213.1, and 213.2 into the SIP on November 9, 1978 (43 FR 52237). The area under the jurisdiction of RCAPCD and SBCAPCD at the time these rules were submitted is now under the jurisdiction of the Mojave Desert Air Quality Management District (MDAQMD) and the South Coast Air Quality Management District (SCAQMD). More information about the jurisdictional history of this area is found in the EPA's Technical Support Document (TSD) accompanying this rulemaking.

CARB has since submitted and the EPA has approved into the California SIP a series of NSR rules for MDAQMD and SCAQMD referred to as Regulation XIII. These rules supersede, among other rules, Rules 213, 213.1, and 213.2. This rulemaking action clarifies the applicable NSR rules for the Mojave Desert air district by removing from the Mojave Desert portion of the California SIP RCAPCD Rules 213, 213.1, and 213.2 and SBCAPCD Rules 213, 213.1, and 213.2.

RCAPCD Rules 203.1, 203.2, and 213.3 and SBCAPCD Rules 203.1, 203.2, and 213.3 also address NSR requirements. However, we can find no evidence that RCAPCD Rules 203.1, 203.2, and 213.3 and SBCAPCD Rules 203.1, 203.2, and 213.3 were ever submitted for SIP approval. Consequently, we are taking no action on the rescission of RCAPCD Rules 203.1, 203.2, and 213.3 and SBCAPCD Rules 203.1, 203.2, and 213.3.

II. The State's Submittal

A. What rules did the State submit for rescission?

MDAQMD rescinded Rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3 on April 28, 2008, and CARB submitted the rescissions adopted by MDAQMD as a revision to the California SIP on October 20, 2008. As noted above, these rules had originally been adopted by RCAPCD and SBCAPCD and approved by the EPA as part of the California SIP. More than a decade later, when MDAQMD was established, MDAQMD adopted the rules that had been adopted by the previous air pollution control district as part of that agency's initial set of rules and regulations. MDAQMD's submittal of the rescissions to CARB for submittal to the EPA make it clear that the rescissions relate to the corresponding SIP rules from which the corresponding MDAQMD rules derive. As such, CARB's submittal of the rescission of MDAQMD Rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3 constitutes the rescission of the corresponding SIP rules, *i.e.,* RCAPCD Rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3 and SBCAPCD Rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3. Table 1 lists these rules, along with SIP approval dates (if any).

TABLE 1—RULES REQUESTED FOR RESCISSION FROM THE MOJAVE DESERT PORTION OF THE CALIFORNIA SIP

Current agency	Agency when rule was submitted to SIP	Rule No.	Rule title	SIP approval date and FR citation
MDAQMD/SCAQMD	RCAPCD	203.1	Special Permit Provisions	Not in SIP.
MDAQMD/SCAQMD	RCAPCD	203.2	Eligibility of Compensatory Emission Reductions	Not in SIP.
MDAQMD/SCAQMD	RCAPCD	213	Standards for Permits to Construct: Air Quality Impact	11/09/78 43 FR 52237.
MDAQMD/SCAQMD	RCAPCD	213.1	Standards for Permits to Operate: Air Quality Impact	11/09/78 43 FR 52237.
MDAQMD/SCAQMD	RCAPCD	213.2	Definitions for Rules 213, 213.1, and 213.3	11/09/78 43 FR 52237.
MDAQMD/SCAQMD	RCAPCD	213.3	Additional Standards for Permits to Construct and Operate.	Not in SIP.
MDAQMD	SBCAPCD	203.1	Special Permit Provisions	Not in SIP.
MDAQMD	SBCAPCD	203.2	Eligibility of Compensatory Emission Reductions	Not in SIP.
MDAQMD	SBCAPCD	213	Standards for Permits to Construct: Air Quality Impact	11/09/78 43 FR 52237.
MDAQMD	SBCAPCD	213.1	Standards for Permits to Operate: Air Quality Impact	11/09/78 43 FR 52237.
MDAQMD	SBCAPCD	213.2	Definitions for Rules 213, 213.1, and 213.3	11/09/78 43 FR 52237.
MDAQMD	SBCAPCD	213.3	Additional Standards for Permits to Construct and Operate.	Not in SIP.

On November 18, 2008, we determined that CARB's October 20, 2008 SIP revision met the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal review by the EPA.

B. What are the purposes of the submitted rule rescissions?

SBCAPCD and RCAPCD rules 203.1, 203.2, 213, 213.1, 213.2, and 213.3 have been superseded by MDAQMD Regulation XIII and SCAQMD Regulation XIII. CARB has requested that these SBCAPCD and RCAPCD rules be rescinded from the SIP for the purpose of clarifying the SIP and to avoid confusion as to the SIP status of these rules. This action represents an administrative change and does not result in changes to SIP approved Regulation XIII that contains the current NSR program. A more detailed discussion of these rules is found in the TSD accompanying this rulemaking.

III. Evaluation and Action

A. How is the EPA evaluating the rescission of the rules?

The EPA is evaluating the rules submitted for rescission by CARB to determine whether they were ever approved in the relevant portion of the SIP, and if they had been approved in the SIP, whether they have been superseded by approval of subsequent rules by the EPA.

B. Do the rule rescissions meet the evaluation criteria?

The provisions contained in RCAPCD Rules 213, 213.1, and 213.2 and SBCAPCD Rules 213, 213.1, and 213.2 have been superseded by MDAQMD Regulation XIII, Rules 1300–1306 (61 FR 58133) and SCAQMD Regulation XIII, Rules 1301–1306, 1309–1310, 1313, and 1325 (50 FR 3906, 61 FR 64291, 64 FR 13514, 71 FR 35157, 80 FR 24821). The rescission of superseded rules is consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. We can find no evidence that RCAPCD Rules 203.1, 203.2, and 213.3 and SBCAPCD Rules 203.1, 203.2, and 213.3 were ever approved into the SIP, therefore no action is necessary to remove them. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, the EPA is fully approving the rescission of RCAPCD Rules 213, 213.1, and 213.2 and SBCAPCD Rules 213, 213.1, and 213.2 because we have concluded that they were superseded years ago by approval by the EPA of subsequent rules and thus are no longer part of the applicable California SIP, and because rescission of them will clarify the contents of the MDAQMD portion of the SIP and avoid confusion as the SIP status of these rules. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule rescissions. If we receive adverse comments by August 22, 2016, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on September 19, 2016. This action will rescind specific rules from the federally enforceable SIP.

Please note that if the EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 19, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 24, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(39)(ii)(J) and (c)(39)(iv)(J) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(39) * * *

(ii) * * *

(J) Previously approved on November 9, 1978 in paragraph (c)(39)(ii)(B) of this section and now deleted without replacement: Rules 213, 213.1, and 213.2.

* * * * *

(iv) * * *

(J) Previously approved on November 9, 1978 in paragraph (c)(39)(iv)(B) of this section and now deleted without replacement: Rules 213, 213.1, and 213.2.

* * * * *

[FR Doc. 2016–17171 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0646; FRL–9948–28]

Cyprodinil; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of cyprodinil in or on vegetable, tuberous and corm, subgroup 1C and potato, wet peel. Syngenta Crop Protection, LLC requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 21, 2016. Objections and requests for hearings must be received on or before September 19, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0646, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0646 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before September 19, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0646, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC) (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of October 21, 2015 (80 FR 63731) (FRL–9935–29), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 5F8358) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300. The petition requested that 40 CFR 180.532 be amended by establishing tolerances for residues of the fungicide cyprodinil, 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamine, in or on vegetable, tuberous and corm, subgroup 1C at 0.01 parts per million (ppm) and potato, wet peel at 0.03 ppm. That document referenced a summary of the petition prepared by Syngenta Crop Protection, LLC, the registrant, which is available in the docket, *http://www.regulations.gov.* No comments were received in response to the Notice of Filing.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for cyprodinil including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with cyprodinil follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

The major target organs of cyprodinil are the liver and the kidney. Liver effects were consistent among male and female rats and mice in both sub-chronic and chronic studies and typically included increased liver weights along with increases in serum clinical chemistry parameters associated with adverse effects on liver function (*i.e.,* increased cholesterol and phospholipid levels). Microscopic lesions in rats and mice included hepatocyte hypertrophy and hepatocellular necrosis. In the kidneys, adverse effects were seen as chronic tubular lesions and chronic kidney inflammation following sub-chronic exposure of male rats. Chronically, cyprodinil caused increased kidney weights and progressive nephropathy in male rats. Chronic effects in dogs were limited to decreased body-weight gain, decreased food consumption and decreased food efficiency; liver toxicity was not seen in the dog. Although increases in thyroid weight and/or hypertrophy of thyroid follicular cells were observed at higher doses in the rat 28-day oral-toxicity studies and in the 90-day oral-toxicity study in rats, treatment related changes in thyroid weights or gross/microscopic observations were not observed in the chronic rat study or in other studies.

A 28-day dietary immunotoxicity study in mice resulted in no apparent suppression of the humoral component of the immune system. The only effect attributed to cyprodinil treatment was higher mean absolute, relative (to body weight), and adjusted liver weights for the 5,000 ppm group. There were no treatment-related effects on absolute, adjusted, or relative spleen or thymus weights; no effects on specific activity or total activity of splenic Immunoglobulin M antibody-forming cells to the T cell-dependent red blood cell antigens. No dermal or systemic toxicity was seen following repeated dermal application at the highest dose in a 21-day dermal toxicity study in rabbits.

An acute neurotoxicity study indicated systemic toxicity with signs of induced hunched posture, piloerection, and reduced responsiveness to sensory stimuli and reduced motor activity. Females were slightly more affected than males per daily clinical observations, which disappeared by day 3 to 4. A dose-related reduction in body temperature was seen in all treated animals, thus hypothermia is considered a compound-related effect in the highest dose tested and was found to be statistically significant, whereas the lower dosed animals was not or only marginally significant and was fully reversible in all groups. Clinical signs, hypothermia, and changes in motor activity were found to all be reversible by day 8. There were no histopathological findings to support evidence of damage to the central nervous system, eyes, optic nerves, or skeletal muscles. A sub-chronic neurotoxicity study showed no treatment related effects on mortality, clinical signs, or gross or histological neuropathology. Functional observational battery and motor activity testing revealed no treatment related effects up to the highest dose tested.

There was no evidence of increased susceptibility in the developmental rat or rabbit study following *in utero* exposure or in the two-generation reproduction study following pre- and post-natal exposure. Fetal toxicity, manifested as significantly lower fetal weights and an increased incidence of delayed ossification in the rat and a slight increase in litters showing extra ribs (13th) in the rabbit, was reported in developmental toxicity studies. In a rat two-generation reproduction study, significantly lower pup weights for F 1 and F 2 offspring were observed. However, each of these fetal/neonatal effects occurred at the same dose levels at which maternal toxicity (decreased body weight gain) was observed and were considered to be secondary to maternal toxicity.

Based on the lack of evidence of carcinogenicity in mice and rats at doses that were judged to be adequate to the carcinogenic potential, cyprodinil was classified as "not likely to be carcinogenic to humans."

Specific information on the studies received and the nature of the adverse effects caused by cyprodinil as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, "Human Health Risk Assessment for Registration Review and New Use Risk Assessment to Support the Registration of Proposed Use on Crop Subgroup 1C" in docket ID number EPA–HQ–OPP–2015–0646.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the LOAEL are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for cyprodinil used for human risk assessment is discussed in Unit III.B of the final rule published in the **Federal Register** of August 17, 2012 (77 FR 49732) (FRL–9359–7).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to cyprodinil, EPA considered exposure under the petitioned-for tolerances as well as all existing cyprodinil tolerances in 40 CFR 180.532.

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. Such effects were identified for cyprodinil. In estimating acute dietary exposure, EPA used food consumption information from the United States Department of Agriculture (USDA) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). This dietary survey was conducted from 2003 to 2008. As to residue levels in food, EPA utilized the Dietary Exposure Evaluation Model software with the Food Commodity Intake Database DEEM–FCID, Version 3.16 default processing factors and tolerance-level residues and 100 percent crop treated (PCT) for all commodities.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA NHANES/WWEIA dietary survey conducted from 2003 to 2008. As to residue levels in food, EPA tolerance-level residues were used for most commodities, and average field trial residues were used for pome fruit, head lettuce, leaf lettuce, spinach, tomato, and grapes. 100 PCT assumptions were used for all commodities. DEEM default and empirical processing factors were used to modify the tolerance values.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that cyprodinil does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* Section 408(b)(2)(E) of FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide residues that have been measured in food. If EPA relies on such information, EPA must require pursuant to FFDCA section 408(f)(1) that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. For the present action, EPA will issue such data call-ins as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Data will be required to be submitted no later than 5 years from the date of issuance of these tolerances.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for cyprodinil and CGA 249287 in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of cyprodinil and CGA 249287. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS), Screening Concentration in Ground Water (SCI–GROW) models and Pesticide Root Zone Model Ground Water (PRZM GW), the estimated drinking water concentrations (EDWCs) of cyprodinil and CGA 249287 for acute exposures are estimated to be 34.8 parts per billion (ppb) for surface water and 2.05 ppb for ground water. EDWCs for chronic exposures for non-cancer assessments are estimated to be 24.7 ppb for surface water and 1.80 ppb for ground water.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For acute dietary risk assessment, the water concentration value of 34.8 ppb was used to assess the contribution to drinking water. For chronic dietary risk assessment, the water concentration of value 24.7 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term "residential exposure" is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Cyprodinil is currently registered for the following uses that could result in residential exposures: Ornamental plants. EPA assessed residential exposure using the following assumptions: Only short-term inhalation exposures to adult residential handlers from application to ornamental plants. Though there may be short-term dermal exposures to handlers, this was not assessed since no dermal endpoint was identified. Post-application exposures to adults and children are not expected. Intermediate or chronic exposures are not expected. Further information regarding EPA standard assumptions and generic inputs for residential exposures may be found at *http://www.epa.gov/pesticides/trac/science/trac6a05.pdf.*

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found cyprodinil to share a common mechanism of toxicity with any other substances, and cyprodinil does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that cyprodinil does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* In a rat developmental toxicity study, there were significantly lower mean fetal weights in the high-dose group compared to controls as well as a significant increase in skeletal anomalies in the high-dose group due to abnormal ossification. The skeletal anomalies/variations were considered to be a transient developmental delay that occurs secondary to the maternal toxicity noted in the high-dose group. In the rabbit study, the only treatment related developmental effect was indication of an increased incidence of a 13th rib at maternally toxic doses. Signs of fetal effects in the two-generation reproductive toxicity study included significantly lower F_1 and F_2 pup weights in the high-dose group during lactation, which continued to be lower than controls post-weaning and after the pre-mating period in the F_1 generation only. Reproductive effects were seen only at doses that also caused parental toxicity.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X for non-inhalation routes of exposure and retained at 10X for inhalation exposure scenarios for all population groups. That decision is based on the following findings:

i. The toxicity database for cyprodinil is complete, except for a 90-day inhalation toxicity study required to reduce uncertainty associated with the use of an oral POD for assessing risk via the inhalation route. In the absence of a route-specific inhalation study, a 10x FQPA SF factor for residential scenarios will be retained for risk assessments involving inhalation exposure.

ii. As indicated by an acute neurotoxicity study in mice, clinical signs, hypothermia, and changes in motor activity were all found to be reversible and no longer seen at day 8. There were no treatment related effects on mortality, gross or histological neuropathology. Reduced motor activity, induced hunched posture, piloerection and reduced responsiveness to sensory stimuli were observed and disappeared in all animals by day 3 to 4. In a sub-chronic neurotoxicity study in rats, there were no treatment related effects on mortality, clinical signs, or gross or histological neuropathology. No clinical signs suggestive of neurobehavioral alterations or evidence of neuropathological effects were observed in the available oral-toxicity studies. Based on this evidence, there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. In the prenatal developmental rat and rabbit studies and in the two-generation reproduction rat study, toxicity to the fetuses/offspring, when observed, occurred at the same doses at which effects were observed in maternal/parental animals. All of these fetal effects were considered to be secondary to maternal toxicity. There is no evidence that cyprodinil results in increased susceptibility *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the two-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The acute dietary assessment was conservative and based on 100 PCT and tolerance level residues as well as DEEM default and empirical processing factors. The chronic dietary assessment was partially refined with average field trial residues for some commodities and tolerance-level residues for the remaining commodities. DEEM default and empirical processing factors were also incorporated into the chronic dietary assessment. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to cyprodinil in drinking water. Based on the discussion in Unit III.C.3, postapplication exposure of children as well as incidental oral exposure of toddlers is not expected. These assessments will not underestimate the exposure and risks posed by cyprodinil.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to cyprodinil will occupy 8.6% of the aPAD for children one to two years old, the population group receiving the greatest exposure.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to cyprodinil from food and water will utilize 86% of the cPAD for children one to two years old, the population group receiving the greatest exposure. Based on the explanation in Unit III.C.3., regarding residential use patterns, chronic residential exposure to residues of cyprodinil is not expected.

3. *Short-term risk.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Cyprodinil is currently registered for uses that could result in short-term residential exposure, and the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-term residential exposures to cyprodinil. Using the exposure assumptions described in this unit for short-term exposures, EPA has estimated the short-term food, water, and residential exposures. For adults, oral dietary and inhalation estimates were combined using the total aggregate risk index (ARI) methodology since the levels of concern (LOC) for oral and dietary exposure (LOC = 100) and inhalation (LOC 1,000) are different. The short-term ARI for adults is 70 which is greater than 1 and is therefore, not of concern.

4. *Intermediate-term risk.* Intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). An intermediate-term adverse effect was identified; however, cyprodinil is not registered for any use patterns that would result in intermediate-term residential exposure. Intermediate-term risk is assessed based on intermediate-term residential exposure plus chronic dietary exposure. Because there is no intermediate-term residential exposure and chronic dietary exposure has already been assessed under the appropriately protective cPAD (which is at least as protective as the POD used to assess intermediate-term risk), no further assessment of intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating intermediate-term risk for cyprodinil.

5. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, chemical name is not expected to pose a cancer risk to humans.

6. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to cyprodinil residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (AG–631 and AG–631B) are available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for cyprodinil in/on potato, wet peel and vegetable, tuberous and corm, subgroup 1C.

V. Conclusion

Therefore, tolerances are established for residues of cyprodinil, 4-cyclopropyl-6-methyl-N-phenyl-2-pyrimidinamin, in or on potato, wet peel at 0.03 and vegetable, tuberous and corm, subgroup 1C at 0.01ppm.

VI. Statutory and Executive Order Reviews

This action establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ‘‘Regulatory Planning and Review’’ (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ‘‘Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use’’ (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ‘‘Protection of Children from Environmental Health Risks and Safety Risks’’ (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ‘‘Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations’’ (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 11, 2016.

Daniel Kenny,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.532, add alphabetically the commodities "Potato, wet peel" and "Vegetable, tuberous and corm, subgroup 1C" to the table in paragraph (a) to read as follows:

§ 180.532 Cyprodinil; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
* * * *	*
Potato, wet peel	0.03
* * * *	*
Vegetable, tuberous and corm, subgroup 1C	0.01
* * * *	*

* * * * *

[FR Doc. 2016–17268 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0329; FRL–9945–41]

Isaria fumosorosea Strain FE 9901; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of *Isaria fumosorosea* strain FE 9901 in or on all food commodities when used in accordance with label directions and good agricultural practices. Novozymes BioAg, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Isaria fumosorosea* strain FE 9901 under FFDCA.

DATES: This regulation is effective July 21, 2016. Objections and requests for hearings must be received on or before September 19, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0329, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0329 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before September 19, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0329, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background

In the **Federal Register** of August 1, 2014 (79 FR 44729) (FRL–9911–67), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 3F8193) by Technology Sciences Group, Inc., 1150 18th St., NW., Suite 1000, Washington, DC 20036 (on behalf of Novozymes BioAg, Inc., 13100 W. Lisbon Rd., Suite 600, Brookfield, WI 53005). The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Isaria fumosoroseus* strain FE 9901 in or on all food commodities. That document referenced a summary of the petition prepared by the petitioner Novozymes BioAg, Inc., which is available in the docket via *http://www.regulations.gov.* There were no comments received in response to this notice of filing.

Based upon a tolerance exemption that EPA established for a different strain of this microbe in 2011 and a review of public literature, EPA revised the active ingredient name from "*Isaria fumosoroseus* strain FE 9901" to "*Isaria fumosorosea* strain FE 9901." The reason for this change is explained in Unit III.C.

III. Final Rule

A. EPA's Safety Determination

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance or tolerance exemption, and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . . ." Additionally, FFDCA section 408(b)(2)(D) requires that EPA consider "available information concerning the cumulative effects of [a particular pesticide's] . . . residues and other substances that have a common mechanism of toxicity."

EPA evaluated the available toxicity and exposure data on *Isaria fumosorosea* strain FE 9901 and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. A full explanation of the data upon which EPA relied and its risk assessment based on that data can be found within the April 11, 2016, document entitled "Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Isaria fumosorosea* strain FE 9901." This document, as well as other relevant information, is available in the docket for this action as described under **ADDRESSES**. Based upon its evaluation, EPA concludes that *Isaria fumosorosea* strain FE 9901 is not toxic, is not pathogenic, and is not infective. Although there may be some exposure to residues when used as an insecticide on food, there is a lack of concern due to the lack of potential for adverse effects. EPA also determined that retention of the Food Quality Protection Act (FQPA) safety factor (SF) was not necessary as part of the qualitative assessment conducted for *Isaria fumosorosea* strain FE 9901.

Based on its evaluation, EPA concludes that there is a reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Isaria fumosorosea* strain FE 9901. Therefore, an exemption from the requirement of a tolerance is established for residues of *Isaria fumosorosea* strain FE 9901 in or on all food commodities when used in accordance with label directions and good agricultural practices.

B. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes for the reasons contained in the April 11, 2016, document entitled "Federal Food, Drug, and Cosmetic Act (FFDCA) Considerations for *Isaria fumosorosea* strain FE 9901" and because EPA is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Revision to the Requested Tolerance Exemption

One modification has been made to the requested tolerance exemption. When Novozymes BioAg, Inc. first submitted this petition in 2013, it described the active ingredient as "*Paecilomyces fumosoroseus* strain FE 9901." After conducting an initial review of this petition, EPA asked Novozymes BioAg, Inc. to revise the genus name of the active ingredient from "*Paecilomyces*" to "*Isaria*" based upon what it believed to be current, acceptable taxonomy. Novozymes BioAg, Inc. responded to EPA's request by representing the active ingredient as "*Isaria fumosoroseus* strain FE 9901" instead of "*Paecilomyces fumosoroseus* strain FE 9901" in its petition. After recently reviewing a tolerance exemption established in 2011 for a different strain of this microbe (40 CFR 180.1306 for *Isaria fumosorosea* Apopka strain 97) and public literature, EPA realizes that it should have also asked Novozymes BioAg, Inc. to change the species name of the active ingredient from "*fumosoroseus*" to "*fumosorosea*" to align completely with current, acceptable taxonomy (Refs. 1, 2, and 3). Use of *Isaria fumosorosea* strain FE 9901 throughout this document is supported by public literature, is consistent with a previous tolerance exemption that EPA established for a different strain of this microbe, and should assist in preventing confusion with regard to the proper nomenclature for this particular active ingredient in the future. EPA does not believe the change from "*fumosoroseus*" to "*fumosorosea*" will cause confusion among the public as there is a clear history linking the first term to the second and because the names refer to the same microbe.

IV. References

1. U.S. EPA. 2011. *Isaria fumosorosea* Apopka Strain 97; Exemption From the Requirement of a Tolerance—Final Rule (Dated September 18, 2011). Available from *https://www.gpo.gov/fdsys/pkg/FR-2011-09-28/pdf/2011-24990.pdf.*
2. USDA. 2011. Agricultural Research Service (ARS) Collection of Entomopathogenic Fungal Cultures—*Isaria* Plus *Paecilomyces, Purpureocillium* and *Evlachovaea* (Dated July 28, 2011). Available from *http://www.ars.usda.gov/sp2userfiles/place/80620510/arsefpdfs/isaria.july2011.pdf.*
3. Zimmermann G. 2008. The entomopathogenic fungi *Isaria farinosa* (formerly *Paecilomyces farinosus*) and the *Isaria fumosorosea* species complex (formerly *Paecilomyces fumosoroseus*): biology, ecology and use in biological control. *Biocontrol Science and Technology* 18:865–901. Available from *http://www.tandfonline.com/doi/abs/10.1080/09583150802471812.*

V. Statutory and Executive Order Reviews

This action establishes a tolerance exemption under FFDCA section 408(d) in response to a petition submitted to EPA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance exemption in this action, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require EPA's consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 6, 2016.

Richard P. Keigwin, Jr.,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.1335 to subpart D to read as follows:

§ 180.1335 Isaria fumosorosea strain FE 9901; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Isaria fumosorosea* strain FE 9901 in or on all food commodities when used in accordance with label directions and good agricultural practices.

[FR Doc. 2016–17275 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 370

[EPA–HQ–SFUND–2010–0763; FRL 9949–05–OLEM]

RIN 2050–AG85

Hazardous Chemical Reporting: Community Right-to-Know; Revisions to Hazard Categories and Minor Corrections; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment, correction.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) issued a final rule in the **Federal Register** on June 13, 2016 (81 FR 38104) amending its hazardous chemical reporting regulations. That document inadvertently omitted the hazard "serious eye damage or eye irritation" in § 370.66 under the definition of "health hazard". This action corrects that definition.

DATES: *Effective Date:* This final rule is effective July 21, 2016.

Compliance Date: The compliance date is January 1, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2010–0763. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington DC 20004; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA issued a final rule in the **Federal Register** of June 13, 2016 (81 FR 38104) amending its hazardous chemical regulations due to the changes in the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS). The final rule inadvertently omitted the hazard “serious eye damage or eye irritation” in § 370.66 under the definition of “health hazard”. This action is being issued to correct the omitted hazard in 40 CFR 370.66, which contains the definitions of the key words used in 40 CFR part 370. Specifically, under the definition of “hazard category,” EPA inadvertently omitted the hazard, “serious eye damage or eye irritation” under the definition of “health hazard.” This document corrects this error by adding the hazard, “serious eye damage or eye irritation” in 40 CFR 370.66 under the definition of “health hazard.”

List of Subjects in 40 CFR Part 370

Environmental protection, Extremely hazardous substances, GHS, Hazard categories, Hazard class, Hazardous chemicals, OSHA HCS, Tier II Inventory Form.

Dated: July 12, 2016.

Mathy Stanislaus,

Assistant Administrator, Office of Land and Emergency Management.

For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is corrected as follows:

PART 370—HAZARDOUS CHEMICAL REPORTING: COMMUNITY RIGHT-TO-KNOW

■ 1. The authority citation for part 370 continues to read as follows:

Authority: Sections 302, 311, 312, 322, 324, 325, 327, 328, and 329 of the Emergency Planning and Community Right-To-Know Act of 1986 (EPCRA) (Pub. L. 99–499, 100 Stat. 1613, 42 U.S.C. 11002, 11021, 11022, 11042, 11044, 11045, 11047, 11048, and 11049).

■ 2. Amend § 370.66 by revising the definition of the term “*Hazard category*” to read as follows:

§ 370.66 How are key words in this part defined?

* * * * *

Hazard category is divided into two categories, health and physical hazards.

(1) Health hazard means a chemical which poses one of the following hazardous effects: Carcinogenicity; acute toxicity (any route of exposure); aspiration hazard; reproductive toxicity; germ cell mutagenicity; skin corrosion or irritation; respiratory or skin sensitization; serious eye damage or eye irritation; specific target organ toxicity (single or repeated exposure); simple asphyxiant; and hazard not otherwise classified (HNOC).

(2) Physical hazard means a chemical which poses one of the following hazardous effects: Flammable (gases, aerosols, liquids or solids); gas under pressure; explosive; self-heating; pyrophoric (liquid or solid); pyrophoric gas; oxidizer (liquid, solid or gas); organic peroxide; self-reactive; in contact with water emits flammable gas; combustible dust; corrosive to metal; and hazard not otherwise classified (HNOC).

* * * * *

[FR Doc. 2016–17277 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 143 and 144

[Docket No. USCG–2006–24412]

RIN 1625–AB06

Inspection of Towing Vessels

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting a final rule that appeared in the **Federal Register** on June 20, 2016 (81 FR 40004). The document issued safety regulations governing the inspection, standards, and safety management systems of towing vessels. In that document there are errors in three regulations that refer to the date July 20, 2016. This rule corrects those errors.

DATES: Effective July 20, 2016.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander William Nabach, Project Manager, CG–OES–2, Coast Guard, telephone 202–372–1386, email *William.A.Nabach@uscg.mil.*

SUPPLEMENTARY INFORMATION:

In FR Doc. 2016–12857 appearing on page 40004 in the **Federal Register** of Monday, June 20, 2016, the following corrections are made:

§ 143.300 [Corrected]

■ 1. On page 40137, in the second column, in § 143.300 Pressure Vessels, in paragraph (d), “Pressure vessels installed after July 20, 2016 must meet the requirements of § 143.545.” is corrected to read “Pressure vessels installed after July 20, 2018, or the date the vessel obtains a Certificate of Inspection (COI), whichever date is earlier, must meet the requirements of § 143.545.”.

§ 144.105 [Corrected]

■ 2. On page 40141, in the third column, in § 144.105 Applicability and delayed implementation, in paragraph (c), the date “July 20, 2016” is corrected to read “July 20, 2017”.

§ 144.135 [Corrected]

■ 3. On page 40142, in Table 144.135, in paragraph (c), “A vessel on which a new installation that is not a “replacement in kind” is to be made after July 20, 2016.” is corrected to read “A vessel on which a new installation that is not a “replacement in kind.””

Dated: July 18, 2016.

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2016–17224 Filed 7–20–16; 8:45 am]

BILLING CODE 9110–04–P

Proposed Rules

Federal Register
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7099; Directorate Identifier 2016–NE–15–AD]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines AG Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain International Aero Engines AG (IAE) V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, V2533–A5, V2525–D5, V2528–D5, and V2531–E5 turbofan engines. This proposed AD was prompted by nine in-flight shutdowns that resulted from premature failure of the No. 3 bearing. This proposed AD would require initial and repetitive inspections of the master magnetic chip detector (MMCD) and, if metallic debris is found, further actions depending on the type of metallic debris. This proposed AD would also require removal of the No. 3 bearing from service at the next engine shop visit. We are proposing this AD to prevent failure of the No. 3 bearing, failure of one or more engines, loss of thrust control, and loss of the airplane.

DATES: We must receive comments on this proposed AD by September 19, 2016.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: 860–565–0140; email: *help24@pw.utc.com;* Internet: *https://fleetcare.pw.utc.com.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7099; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Brian Kierstead, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7772; fax: 781–238–7199; email: *brian.kierstead@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA–2016–7099; Directorate Identifier 2016–NE–15–AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We learned from the manufacturer that nine in-flight shutdowns resulted from premature failure of the No. 3 bearing. This condition, if not corrected, could result in failure of the No. 3 bearing, failure of one or more engines, loss of thrust control, and loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed IAE Non-Modification Service Bulletin (NMSB) V2500–ENG–72–0671, dated March 22, 2016. The NMSB describes procedures for inspecting the MMCD and further actions if metallic debris is found. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require initial and repetitive inspections of the MMCD and, if metallic debris is found, further actions depending on the type of metallic debris. This proposed AD would also require removal of the No. 3 bearing from service at the next engine shop visit and its replacement with a part eligible for installation.

Costs of Compliance

We estimate that this proposed AD affects 11 engines installed on airplanes of U.S. registry. We estimate that it would take about 1 hour to perform the inspection. The average labor rate is $85 per hour. We estimate the cost to replace a No. 3 bearing to be $54,510. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $600,545.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

International Aero Engines AG: Docket No. FAA–2016–7099; Directorate Identifier 2016–NE–15–AD.

(a) Comments Due Date

We must receive comments by September 19, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines (IAE) V2522–A5, V2524–A5, V2527–A5, V2527E–A5, V2527M–A5, V2530–A5, V2533–A5, V2525–D5, V2528–D5, and V2531–E5 turbofan engines with No. 3 bearing serial numbers listed in Appendix 1 of IAE Non-Modification Service Bulletin (NMSB) V2500–ENG–72–0671, dated March 22, 2016.

(d) Unsafe Condition

This AD was prompted by several in-flight shutdowns that resulted from premature failure of the No. 3 bearing. We are issuing this AD to prevent failure of the No. 3 bearing, failure of one or more engines, loss of thrust control, and loss of the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Prior to accumulating 125 flight hours after the effective date of this AD, inspect the master magnetic chip detector (MMCD) for metallic debris. If no metallic debris is found during the MMCD inspection, repeat the inspection within every 125 flight hours.

(2) If metallic debris is found during the MMCD inspection, evaluate the debris using paragraph 2.B. of the Accomplishment Instructions in IAE NMSB V2500–ENG–72–0671, dated March 22, 2016. Perform additional inspections or remove the engine from service in accordance with the Accomplishment Instructions in IAE NMSB V2500–ENG–72–0671.

(3) Remove the No. 3 bearing from service at the next engine shop visit and replace it with a bearing part/serial number combination not listed in Appendix 1 of IAE NMSB V2500–ENG–72–0671, dated March 22, 2016.

(f) Mandatory Terminating Action

Removal of the No. 3 bearing from service at the next engine shop visit and replacement with a bearing not listed in Appendix 1 of IAE NMSB V2500–ENG–72–0671, dated March 22, 2016, is terminating action to this AD.

(g) Definition

For the purpose of this AD, an "engine shop visit" is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, except that the separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE–AD–AMOC@faa.gov.*

(i) Related Information

(1) For more information about this AD, contact Brian Kierstead, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7772; fax: 781–238–7199; email: *brian.kierstead@faa.gov.*

(2) IAE NMSB V2500–ENG–72–0671, dated March 22, 2016, can be obtained from IAE using the contact information in paragraph (i)(3) of this proposed AD.

(3) For service information identified in this proposed AD, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: 860–565–0140; email: *help24@pw.utc.com;* Internet: *http://fleetcare.pw.utc.com.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on July 13, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–17159 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2014–0428; FRL–9949–38–Region 4]

Air Plan Approval; North Carolina; Infrastructure Requirements for the 2012 $PM_{2.5}$ National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve portions of the State Implementation Plan (SIP) submission, submitted by the State of North Carolina, through the Department of Environmental Quality (DEQ), formerly known as the Department of Environment and Natural Resources (DENR), Division of Air Quality (DAQ), on December 4, 2015, for inclusion into the North Carolina SIP.

This proposal pertains to the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 Annual Fine Particulate Matter ($PM_{2.5}$) national ambient air quality standard (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP submission. DAQ certified that the North Carolina SIP contains provisions that ensure the 2012 Annual $PM_{2.5}$ NAAQS is implemented, enforced, and maintained in North Carolina. EPA is proposing to determine that portions of North Carolina's infrastructure SIP submission, provided to EPA on December 4, 2015, satisfy certain infrastructure elements for the 2012 Annual $PM_{2.5}$ NAAQS.

DATES: Written comments must be received on or before August 22, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2014–0428 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets*.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Bell can be reached via electronic mail at *bell.tiereny@epa.gov* or via telephone at (404) 562–9088.

SUPPLEMENTARY INFORMATION:

I. Background and Overview

On December 14, 2012 (78 FR 3086, January 15, 2013), EPA promulgated a revised primary annual $PM_{2.5}$ NAAQS. The standard was strengthened from 15.0 micrograms per cubic meter ($\mu g/m^3$) to 12.0 $\mu g/m^3$. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2012 Annual $PM_{2.5}$ NAAQS to EPA no later than December 14, 2015.[1]

This rulemaking is proposing to approve portions of North Carolina's $PM_{2.5}$ infrastructure SIP submissions[2] for the applicable requirements of the 2012 Annual $PM_{2.5}$ NAAQS, with the exception of the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4) and preconstruction Prevention of Significant Deterioration (PSD) permitting requirements for major sources of section 110(a)(2)(C) and (J), for which EPA is not proposing any action in this rulemaking regarding these requirements. For the aspects of North Carolina's submittal proposed for approval in this rulemaking, EPA notes that the Agency is not approving any specific rule, but rather proposing that North Carolina's already approved SIP meets certain CAA requirements.

II. What elements are required under sections 110(a)(1) and (2)?

Section 110(a) of the CAA requires states to submit SIPs to provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within three years following the promulgation of such NAAQS, or within such shorter period as EPA may prescribe. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP for a new or revised NAAQS affects the content of the submission. The contents of such SIP submissions may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists specific elements that states must meet for "infrastructure" SIP requirements related to a newly established or revised NAAQS. As mentioned above, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. The requirements that are the subject of this proposed rulemaking are summarized below and in EPA's September 13, 2013, memorandum entitled "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)."[3]

- 110(a)(2)(A): Emission Limits and Other Control Measures
- 110(a)(2)(B): Ambient Air Quality Monitoring/Data System
- 110(a)(2)(C): Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources[4]
- 110(a)(2)(D)(i)(I) and (II): Interstate Pollution Transport
- 110(a)(2)(D)(ii): Interstate Pollution Abatement and International Air Pollution

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[1] In these infrastructure SIP submissions States generally certify evidence of compliance with sections 110(a)(1) and (2) of the CAA through a combination of state regulations and statutes, some of which have been incorporated into the federally-approved SIP. In addition, certain federally-approved, non-SIP regulations may also be appropriate for demonstrating compliance with sections 110(a)(1) and (2). Throughout this rulemaking unless otherwise noted, the cited regulation (North Carolina Administrative Code (NCAC)) has either been approved, or submitted for approval into North Carolina's federally-approved SIP. The North Carolina statutory provisions cited to herein (North Carolina General Statutes (NCGS)) have not been approved into the North Carolina SIP, unless otherwise noted.

[2] North Carolina's 2012 Annual $PM_{2.5}$ NAAQS infrastructure SIP submission dated December 4, 2015, is referred to as "North Carolina's $PM_{2.5}$ infrastructure SIP" in this action.

[3] Two elements identified in section 110(a)(2) are not governed by the three year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within three years after promulgation of a new or revised NAAQS, but rather due at the time the nonattainment area plan requirements are due pursuant to section 172. These requirements are: (1) Submissions required by section 110(a)(2)(C) to the extent that subsection refers to a permit program as required in part D Title I of the CAA; and (2) submissions required by section 110(a)(2)(I) which pertain to the nonattainment planning requirements of part D, Title I of the CAA. This proposed rulemaking does not address infrastructure elements related to section 110(a)(2)(I) or the nonattainment planning requirements of 110(a)(2)(C).

[4] This rulemaking only addresses requirements for this element as they relate to attainment areas.

- 110(a)(2)(E): Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies
- 110(a)(2)(F): Stationary Source Monitoring and Reporting
- 110(a)(2)(G): Emergency Powers
- 110(a)(2)(H): SIP revisions
- 110(a)(2)(I): Plan Revisions for Nonattainment Areas [5]
- 110(a)(2)(J): Consultation with Government Officials, Public Notification, and Prevention of Significant Deterioration (PSD) and Visibility Protection
- 110(a)(2)(K): Air Quality Modeling and Submission of Modeling Data
- 110(a)(2)(L): Permitting fees
- 110(a)(2)(M): Consultation and Participation by Affected Local Entities

III. What is EPA's approach to the review of infrastructure SIP submissions?

EPA is acting upon the SIP submission from North Carolina that addresses the infrastructure requirements of CAA sections 110(a)(1) and 110(a)(2) for the 2012 Annual $PM_{2.5}$ NAAQS. The requirement for states to make a SIP submission of this type arises out of CAA section 110(a)(1). Pursuant to section 110(a)(1), states must make SIP submissions "within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof)," and these SIP submissions are to provide for the "implementation, maintenance, and enforcement" of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA's taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that "[e]ach such plan" submission must address.

EPA has historically referred to these SIP submissions made for the purpose of satisfying the requirements of CAA sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" submissions. Although the term "infrastructure SIP" does not appear in the CAA, EPA uses the term to distinguish this particular type of SIP submission from submissions that are intended to satisfy other SIP requirements under the CAA, such as "nonattainment SIP" or "attainment plan SIP" submissions to address the nonattainment planning requirements of part D of title I of the CAA, "regional haze SIP" submissions required by EPA rule to address the visibility protection requirements of CAA section 169A, and nonattainment new source review (NNSR) permit program submissions to address the permit requirements of CAA, title I, part D.

Section 110(a)(1) addresses the timing and general requirements for infrastructure SIP submissions, and section 110(a)(2) provides more details concerning the required contents of these submissions. The list of required elements provided in section 110(a)(2) contains a wide variety of disparate provisions, some of which pertain to required legal authority, some of which pertain to required substantive program provisions, and some of which pertain to requirements for both authority and substantive program provisions.[6] EPA therefore believes that while the timing requirement in section 110(a)(1) is unambiguous, some of the other statutory provisions are ambiguous. In particular, EPA believes that the list of required elements for infrastructure SIP submissions provided in section 110(a)(2) contains ambiguities concerning what is required for inclusion in an infrastructure SIP submission.

The following examples of ambiguities illustrate the need for EPA to interpret some section 110(a)(1) and section 110(a)(2) requirements with respect to infrastructure SIP submissions for a given new or revised NAAQS. One example of ambiguity is that section 110(a)(2) requires that "each" SIP submission must meet the list of requirements therein, while EPA has long noted that this literal reading of the statute is internally inconsistent and would create a conflict with the nonattainment provisions in part D of title I of the Act, which specifically address nonattainment SIP requirements.[7] Section 110(a)(2)(I) pertains to nonattainment SIP requirements and part D addresses when attainment plan SIP submissions to address nonattainment area requirements are due. For example, section 172(b) requires EPA to establish a schedule for submission of such plans for certain pollutants when the Administrator promulgates the designation of an area as nonattainment, and section 107(d)(1)(B) allows up to two years, or in some cases three years, for such designations to be promulgated.[8] This ambiguity illustrates that rather than apply all the stated requirements of section 110(a)(2) in a strict literal sense, EPA must determine which provisions of section 110(a)(2) are applicable for a particular infrastructure SIP submission.

Another example of ambiguity within sections 110(a)(1) and 110(a)(2) with respect to infrastructure SIPs pertains to whether states must meet all of the infrastructure SIP requirements in a single SIP submission, and whether EPA must act upon such SIP submission in a single action. Although section 110(a)(1) directs states to submit "a plan" to meet these requirements, EPA interprets the CAA to allow states to make multiple SIP submissions separately addressing infrastructure SIP elements for the same NAAQS. If states elect to make such multiple SIP submissions to meet the infrastructure SIP requirements, EPA can elect to act on such submissions either individually or in a larger combined action.[9] Similarly, EPA interprets the CAA to allow it to take action on the individual parts of one larger, comprehensive infrastructure SIP submission for a given NAAQS without concurrent action on the entire submission. For example, EPA has sometimes elected to act at different times on various elements and sub-elements of the same infrastructure SIP submission.[10]

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[5] As mentioned above, this element is not relevant to this proposed rulemaking.

[6] For example: Section 110(a)(2)(E)(i) provides that states must provide assurances that they have adequate legal authority under state and local law to carry out the SIP; section 110(a)(2)(C) provides that states must have a SIP-approved program to address certain sources as required by part C of title I of the CAA; and section 110(a)(2)(G) provides that states must have legal authority to address emergencies as well as contingency plans that are triggered in the event of such emergencies.

[7] See, *e.g.*, "Rule To Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_X SIP Call; Final Rule," 70 FR 25162, at 25163–65 (May 12, 2005) (explaining relationship between timing requirement of section 110(a)(2)(D) versus section 110(a)(2)(I)).

[8] EPA notes that this ambiguity within section 110(a)(2) is heightened by the fact that various subparts of part D set specific dates for submission of certain types of SIP submissions in designated nonattainment areas for various pollutants. Note, *e.g.*, that section 182(a)(1) provides specific dates for submission of emissions inventories for the ozone NAAQS. Some of these specific dates are necessarily later than three years after promulgation of the new or revised NAAQS.

[9] See, *e.g.*, "Approval and Promulgation of Implementation Plans; New Mexico; Revisions to the New Source Review (NSR) State Implementation Plan (SIP); Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NNSR) Permitting," 78 FR 4339 (January 22, 2013) (EPA's final action approving the structural PSD elements of the New Mexico SIP submitted by the State separately to meet the requirements of EPA's 2008 $PM_{2.5}$ NSR rule), and "Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Infrastructure and Interstate Transport Requirements for the 2006 $PM_{2.5}$ NAAQS," (78 FR 4337) (January 22, 2013) (EPA's final action on the infrastructure SIP for the 2006 $PM_{2.5}$ NAAQS).

Ambiguities within sections 110(a)(1) and 110(a)(2) may also arise with respect to infrastructure SIP submission requirements for different NAAQS. Thus, EPA notes that not every element of section 110(a)(2) would be relevant, or as relevant, or relevant in the same way, for each new or revised NAAQS. The states' attendant infrastructure SIP submissions for each NAAQS therefore could be different. For example, the monitoring requirements that a state might need to meet in its infrastructure SIP submission for purposes of section 110(a)(2)(B) could be very different for different pollutants because the content and scope of a state's infrastructure SIP submission to meet this element might be very different for an entirely new NAAQS than for a minor revision to an existing NAAQS.[11]

EPA notes that interpretation of section 110(a)(2) is also necessary when EPA reviews other types of SIP submissions required under the CAA. Therefore, as with infrastructure SIP submissions, EPA also has to identify and interpret the relevant elements of section 110(a)(2) that logically apply to these other types of SIP submissions. For example, section 172(c)(7) requires that attainment plan SIP submissions required by part D have to meet the "applicable requirements" of section 110(a)(2). Thus, for example, attainment plan SIP submissions must meet the requirements of section 110(a)(2)(A) regarding enforceable emission limits and control measures and section 110(a)(2)(E)(i) regarding air agency resources and authority. By contrast, it is clear that attainment plan SIP submissions required by part D would not need to meet the portion of section 110(a)(2)(C) that pertains to the PSD program required in part C of title I of the CAA, because PSD does not apply to a pollutant for which an area is designated nonattainment and thus subject to part D planning requirements. As this example illustrates, each type of SIP submission may implicate some elements of section 110(a)(2) but not others.

Given the potential for ambiguity in some of the statutory language of section 110(a)(1) and section 110(a)(2), EPA believes that it is appropriate to interpret the ambiguous portions of section 110(a)(1) and section 110(a)(2) in the context of acting on a particular SIP submission. In other words, EPA assumes that Congress could not have intended that each and every SIP submission, regardless of the NAAQS in question or the history of SIP development for the relevant pollutant, would meet each of the requirements, or meet each of them in the same way. Therefore, EPA has adopted an approach under which it reviews infrastructure SIP submissions against the list of elements in section 110(a)(2), but only to the extent each element applies for that particular NAAQS.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements.[12] EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Guidance).[13] EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions.[14] The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2). Significantly, EPA interprets sections 110(a)(1) and 110(a)(2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

As an example, section 110(a)(2)(E)(ii) is a required element of section 110(a)(2) for infrastructure SIP submissions. Under this element, a state must meet the substantive requirements of section 128, which pertain to state boards that approve permits or enforcement orders and heads of executive agencies with similar powers. Thus, EPA reviews infrastructure SIP submissions to ensure that the state's implementation plan appropriately addresses the requirements of section 110(a)(2)(E)(ii) and section 128. The 2013 Guidance explains EPA's interpretation that there may be a variety of ways by which states can appropriately address these substantive statutory requirements, depending on the structure of an individual state's permitting or enforcement program (*e.g.,* whether permits and enforcement orders are approved by a multi-member board or by a head of an executive agency). However they are addressed by the state, the substantive requirements of section 128 are necessarily included in EPA's evaluation of infrastructure SIP submissions because section 110(a)(2)(E)(ii) explicitly requires that the state satisfy the provisions of section 128.

As another example, EPA's review of infrastructure SIP submissions with respect to the PSD program requirements in sections 110(a)(2)(C), (D)(i)(II), and (J) focuses upon the structural PSD program requirements contained in part C and EPA's PSD regulations. Structural PSD program requirements include provisions necessary for the PSD program to address all regulated sources and new source review (NSR) pollutants, including greenhouse gases. By contrast, structural PSD program requirements do not include provisions that are not required under EPA's regulations at 40 CFR 51.166 but are merely available as an option for the state, such as the option to provide grandfathering of complete permit applications with respect to the 2012 Annual $PM_{2.5}$ NAAQS. Accordingly, the latter optional provisions are types of provisions EPA considers irrelevant in the context of an infrastructure SIP action.

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[10] On December 14, 2007, the State of Tennessee, through the Tennessee Department of Environment and Conservation, made a SIP revision to EPA demonstrating that the State meets the requirements of sections 110(a)(1) and (2). EPA proposed action for infrastructure SIP elements (C) and (J) on January 23, 2012 (77 FR 3213) and took final action on March 14, 2012 (77 FR 14976). On April 16, 2012 (77 FR 22533) and July 23, 2012 (77 FR 42997), EPA took separate proposed and final actions on all other section 110(a)(2) infrastructure SIP elements of Tennessee's December 14, 2007, submittal.

[11] For example, implementation of the 1997 $PM_{2.5}$ NAAQS required the deployment of a system of new monitors to measure ambient levels of that new indicator species for the new NAAQS.

[12] EPA notes, however, that nothing in the CAA requires EPA to provide guidance or to promulgate regulations for infrastructure SIP submissions. The CAA directly applies to states and requires the submission of infrastructure SIP submissions, regardless of whether or not EPA provides guidance or regulations pertaining to such submissions. EPA elects to issue such guidance in order to assist states, as appropriate.

[13] "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

[14] EPA's September 13, 2013, guidance did not make recommendations with respect to infrastructure SIP submissions to address section 110(a)(2)(D)(i)(I). EPA issued the guidance shortly after the United States (U.S.) Supreme Court agreed to review the D.C. Circuit decision in *EME Homer City,* 696 F.3d7 (D.C. Cir. 2012) which had interpreted the requirements of section 110(a)(2)(D)(i)(I). In light of the uncertainty created by ongoing litigation, EPA elected not to provide additional guidance on the requirements of section 110(a)(2)(D)(i)(I) at that time. As the guidance is neither binding nor required by statute, whether EPA elects to provide guidance on a particular section has no impact on a state's CAA obligations. On March 17, 2016, EPA released a memorandum titled, "Information on the Interstate Transport 'Good Neighbor' Provision for the 2012 Fine Particulate Matter National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I)" to provide guidance to states for interstate transport requirements specific to the $PM_{2.5}$ NAAQS.

For other section 110(a)(2) elements, however, EPA's review of a state's infrastructure SIP submission focuses on assuring that the state's implementation plan meets basic structural requirements. For example, section 110(a)(2)(C) includes, *inter alia,* the requirement that states have a program to regulate minor new sources. Thus, EPA evaluates whether the state has an EPA-approved minor new source review program and whether the program addresses the pollutants relevant to that NAAQS. In the context of acting on an infrastructure SIP submission, however, EPA does not think it is necessary to conduct a review of each and every provision of a state's existing minor source program (*i.e.,* already in the existing SIP) for compliance with the requirements of the CAA and EPA's regulations that pertain to such programs.

With respect to certain other issues, EPA does not believe that an action on a state's infrastructure SIP submission is necessarily the appropriate type of action in which to address possible deficiencies in a state's existing SIP. These issues include: (i) Existing provisions related to excess emissions from sources during periods of startup, shutdown, or malfunction that may be contrary to the CAA and EPA's policies addressing such excess emissions ("SSM"); (ii) existing provisions related to "director's variance" or "director's discretion" that may be contrary to the CAA because they purport to allow revisions to SIP-approved emissions limits while limiting public process or not requiring further approval by EPA; and (iii) existing provisions for PSD programs that may be inconsistent with current requirements of EPA's "Final NSR Improvement Rule," 67 FR 80186 (December 31, 2002), as amended by 72 FR 32526 (June 13, 2007) ("NSR Reform"). Thus, EPA believes it may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such potentially deficient provisions and may approve the submission even if it is aware of such existing provisions.[15] It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing potentially deficient provisions that relate to the three specific issues just described.

EPA's approach to review of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. EPA believes that this approach to the review of a particular infrastructure SIP submission is appropriate, because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts. These provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of "implementation, maintenance, and enforcement" of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. EPA believes that a better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of a new or revised NAAQS or other factors.

For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II), because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

Finally, EPA believes that its approach with respect to infrastructure SIP requirements is based on a reasonable reading of sections 110(a)(1) and 110(a)(2) because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a "SIP call" whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[16] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[17] Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, EPA believes that section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[18]

IV. What is EPA's analysis of how North Carolina addressed the elements of the sections 110(a)(1) and (2) "infrastructure" provisions?

The North Carolina infrastructure submission addresses the provisions of sections 110(a)(1) and (2) as described below.

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[15] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[16] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See "Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions," 74 FR 21639 (April 18, 2011).

[17] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule," 75 FR 82536 (December 30, 2010). EPA has previously used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[18] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). See, *e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

1. 110(a)(2)(A): Emission Limits and Other Control Measures: Section 110(a)(2)(A) requires that each implementation plan include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements. These requirements are met through several North Carolina Administrative Code (NCAC) regulations. Specifically, 15A NCAC 2D .0500 *Emission Control Standards* establishes emission limits for $PM_{2.5}$. The following State rules address additional control measures, means and techniques: 15A NCAC 2D .0600 *Monitoring: Recordkeeping: Reporting,* and 15A NCAC 2D .2600 *Source Testing.* In addition North Carolina General Statutes (NCGS)143–215.107(a)(5), *Air quality standards and classifications,* provides the North Carolina Environmental Management Commission (EMC) with the statutory authority, "To develop and adopt emission control standards as in the judgment of the Commission may be necessary to prohibit, abate, or control air pollution commensurate with established air quality standards." EPA has made the preliminary determination that the provisions contained in these regulations, and North Carolina's statutory authority are adequate for Section 110(a)(2)(A) for the 2012 Annual $PM_{2.5}$ NAAQS.

In this action, EPA is not proposing to approve or disapprove any existing State provisions with regard to excess emissions during SSM operations at a facility. EPA believes that a number of states have SSM provisions which are contrary to the CAA and existing EPA guidance, "State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown" (September 20, 1999), and the Agency is addressing such state regulations in a separate action.[19]

Additionally, in this action, EPA is not proposing to approve or disapprove any existing state rules with regard to director's discretion or variance provisions. EPA believes that a number of states have such provisions which are contrary to the CAA and existing EPA guidance (52 FR 45109 (November 24, 1987)), and the Agency plans to take action in the future to address such state regulations. In the meantime, EPA encourages any state having a director's discretion or variance provision which is contrary to the CAA and EPA guidance to take steps to correct the deficiency as soon as possible.

2. 110(a)(2)(B) Ambient Air Quality Monitoring/Data System: Section 110(a)(2)(B) requires SIPs to provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to: (i) Monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator. NCGS 143–215.107(a)(2), *Air quality standards and classifications,* provides the EMC with the statutory authority "To determine by means of field sampling and other studies, including the examination of available data collected by any local, State or federal agency or any person, the degree of air contamination and air pollution in the State and the several areas of the State."

Annually, states develop and submit to EPA for approval statewide ambient monitoring network plans consistent with the requirements of 40 CFR parts 50, 53, and 58. The annual network plan involves an evaluation of any proposed changes to the monitoring network, and includes the annual ambient monitoring network design plan and a certified evaluation of the agency's ambient monitors and auxiliary support equipment.[20] The latest monitoring network plan for North Carolina was submitted to EPA on July 23, 2015, and on November 19, 2015, EPA approved this plan. North Carolina's approved monitoring network plan can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0428.

NCGS 143–215.107(a)(2), EPA regulations, along with North Carolina's Ambient Air Monitoring Network Plan, provide for the establishment and operation of ambient air quality monitors, the compilation and analysis of ambient air quality data, and the submission of these data to EPA upon request. EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the ambient air quality monitoring and data system related to the 2012 Annual $PM_{2.5}$ NAAQS.

3. 110(a)(2)(C) Programs for Enforcement of Control Measures and for Construction or Modification of Stationary Sources: This element consists of three sub-elements: Enforcement, state-wide regulation of new and modified minor sources and minor modifications of major sources, and preconstruction permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e.,* the major source PSD program). To meet these obligations, North Carolina cited the following State regulations: 15A NCAC 2D .0500 *Emissions Control Standards;* 15A NCAC 2D .0530 *Prevention of Significant Deterioration;* 15A NCAC 2D .0531 *Sources in Nonattainment Areas;* and 15A NCAC 2Q .0300 *Construction Operation Permits.* Collectively, these regulations enable North Carolina to regulate sources contributing to the 2012 Annual $PM_{2.5}$ NAAQS through enforceable permits. North Carolina also cited to the following statutory provisions as supporting this element: NCGS 143–215.108, *Control of sources of air pollution; permits required;* NCGS 143–215.107(a)(7), *Air quality standards and classifications;* and NCGS 143–215.6A, 6B, and 6C, *Enforcement procedures: Civil penalties, criminal penalties,* and *injunctive relief.*

In this action, EPA is proposing to approve North Carolina's infrastructure SIP for the 2012 Annual $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(C) to include a program in the SIP for enforcement of $PM_{2.5}$ emissions controls and measures and the regulation of minor sources and modifications to assist in the protection of air quality in nonattainment, attainment or unclassifiable areas.

Enforcement: DAQ's above-described, SIP-approved regulations provide for enforcement of $PM_{2.5}$ emission limits and control measures through enforceable permits. In addition, North Carolina cited NCGS 143–215.6A, 6B, and 6C, which provides NC DAQ with the statutory authority to seek civil and criminal penalties, and injunctive relief to enforce air quality rules.

Preconstruction PSD Permitting for Major Sources: With respect to North Carolina's infrastructure SIP submission related to the preconstruction PSD permitting requirements for major sources of section 110(a)(2)(C), EPA is not proposing any action in this rule making regarding these requirements and instead will act on this portion of the submission in a separate action.

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[19] On June 12, 2015, EPA published a final action entitled, "State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown, and Malfunction." *See* 80 FR 33840.

[20] On occasion, proposed changes to the monitoring network are evaluated outside of the network plan approval process in accordance with 40 CFR part 58.

Regulation of minor sources and modifications: Section 110(a)(2)(C) also requires the SIP to include provisions that govern the minor source program that regulates emissions of the 2012 Annual $PM_{2.5}$ NAAQS. Regulation 15A NCAC 2Q .0300 *Construction Operation Permits* governs the preconstruction permitting of minor modifications and construction of minor stationary sources.

EPA has made the preliminary determination that North Carolina's SIP is adequate for enforcement of control measures and regulation of minor sources and modifications related to the 2012 Annual $PM_{2.5}$ NAAQS.

4. 110(a)(2)(D)(i)(I) and (II) Interstate Pollution Transport: Section 110(a)(2)(D)(i) has two components: 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II). Each of these components has two subparts resulting in four distinct components, commonly referred to as "prongs," that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), are provisions that prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state ("prong 1"), and interfering with maintenance of the NAAQS in another state ("prong 2"). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), are provisions that prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state ("prong 3"), or to protect visibility in another state ("prong 4"). EPA is not proposing any action in this rulemaking related to the interstate transport requirements of section 110(a)(2)(D)(i)(I) and 110(a)(2)(D)(i)(II) (prongs 1 through 4).

5. 110(a)(2)(D)(ii) Interstate Pollution Abatement and International Air Pollution: Section 110(a)(2)(D)(ii) requires SIPs to include provisions insuring compliance with sections 115 and 126 of the Act relating to interstate and international pollution abatement. 15A NCAC 2D .0530 *Prevention of Significant Deterioration* and 15A NCAC 2D .0531 *Sources of Nonattainment Areas* provide how DAQ will notify neighboring states of potential impacts from new or modified sources consistent with the requirements of 40 CFR 51.166. These regulations require DAQ to provide an opportunity for a public hearing to the public, which includes state or local air pollution control agencies, "whose lands may be affected by emissions from the source or modification" in North Carolina. In addition, North Carolina does not have any pending obligation under sections 115 and 126 of the CAA. Accordingly, EPA has made the preliminary determination that North Carolina's SIP is adequate for ensuring compliance with the applicable requirements relating to interstate and international pollution abatement for the 2012 Annual $PM_{2.5}$ NAAQS.

6. 110(a)(2)(E) Adequate Resources and Authority, Conflict of Interest, and Oversight of Local Governments and Regional Agencies: Section 110(a)(2)(E) requires that each implementation plan provide: (i) Necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out its implementation plan, (ii) that the state comply with the requirements respecting state boards pursuant to section 128 of the Act, and (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provisions. EPA is proposing to approve North Carolina's SIP as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii) and (iii). EPA's rationale for this proposal respecting each sub-element is described below.

To satisfy the requirements of sections 110(a)(2)(E)(i) and (iii), North Carolina's infrastructure SIP submission cites several regulations. Rule 15A NCAC 2Q .0200 "*Permit Fees,*" provides the mechanism by which stationary sources that emit air pollutants pay a fee based on the quantity of emissions. State statutes NCGS 143–215.3, *General powers of Commission and Department: Auxiliary powers,* and NCGS 143–215.107(a)(1), *Air quality standards and classifications,* provide the EMC with the statutory authority "[t]o prepare and develop, after proper study, a comprehensive plan or plans for the prevention, abatement and control of air pollution in the State or in any designated area of the State." NCGS 143–215.112, *Local air pollution control programs,* provides the EMC with the statutory authority "to review and have general oversight and supervision over all local air pollution control programs." North Carolina has three local air agencies located in Buncombe, Forsyth, and Mecklenburg Counties that implement the air program in these areas.

As further evidence of the adequacy of DAQ's resources, EPA submitted a letter to North Carolina on April 19, 2016, outlining 105 grant commitments and the current status of these commitments for fiscal year 2015. The letter EPA submitted to North Carolina can be accessed at *www.regulations.gov* using Docket ID No. EPA–R04–OAR–2014–0428. Annually, states update these grant commitments based on current SIP requirements, air quality planning, and applicable requirements related to the NAAQS. North Carolina satisfactorily met all commitments agreed to in the Air Planning Agreement for fiscal year 2015, therefore North Carolina's grants were finalized and closed out. Collectively, these rules and commitments provide evidence that DAQ has adequate personnel, funding, and legal authority to carry out the State's implementation plan and related issues. EPA has made the preliminary determination that North Carolina has adequate resources and authority to satisfy sections 110(a)(2)(E)(i) and (iii) of the 2012 Annual $PM_{2.5}$ NAAQS.

Section 110(a)(2)(E)(ii) requires that the state comply with section 128 of the CAA. Section 128 requires that the SIP provide: (1) The majority of members of the state board or body which approves permits or enforcement orders represent the public interest and do not derive any significant portion of their income from persons subject to permitting or enforcement orders under the CAA; and (2) any potential conflicts of interest by such board or body, or the head of an executive agency with similar powers be adequately disclosed. For purposes of section 128(a)(1), as of October 1, 2012, North Carolina has no boards or bodies with authority over air pollution permits or enforcement actions. The authority to approve CAA permits or enforcement orders are instead delegated to the Secretary of the Department of Environment and Natural Resources (DENR) and his/her delegatee. As such, a "board or body" is not responsible for approving permits or enforcement orders in North Carolina, and the requirements of section 128(a)(1) are not applicable.

On November 3, 2015 (80 FR 67645), EPA approved North Carolina's section 128(a)(2) conflict of interest disclosure requirements for administrative law judges (ALJs)[21] through NCGS 7A–754 of the North Carolina General Statues, which contains provisions related to the Office of Administrative Hearings addressing these requirements for the ALJ. NCGS 7A–754 requires ALJs to act impartially, which broadly includes financial considerations, relationships, and other associations. ALJs are prohibited from participating in any matter in which the ALJs impartiality might reasonably be questioned or the ALJ must disclose the potential conflict of interest on the record in the proceeding. In the case of such disclosures, the parties to the matter must agree that the disclosed conflict of interest is immaterial before the ALJ may continue to participate in the matter.

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[21] EPA has determined that ALJs in North Carolina are authorized to approve permits and enforcement orders on appeal and that the ALJs must therefore meet the conflict of interest disclosure requirements of section 128(a)(2).

EPA has made the preliminary determination that the State has adequately addressed the requirements of section 128(a), and accordingly has met the requirements of section 110(a)(2)(E)(ii) with respect to infrastructure SIP requirements. Therefore, EPA is proposing to approve North Carolina's infrastructure SIP submission as meeting the requirements of sub-elements 110(a)(2)(E)(i), (ii) and (iii).

7. 110(a)(2)(F) Stationary Source Monitoring and Reporting: Section 110(a)(2)(F) requires SIPs to meet applicable requirements addressing: (i) The installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this section, which reports shall be available at reasonable times for public inspection. North Carolina's infrastructure SIP submission describes how the State establishes requirements for emissions compliance testing and utilizes emissions sampling and analysis. DAQ uses these data to track progress towards maintaining the NAAQS, develop control and maintenance strategies, identify sources and general emission levels, and determine compliance with emission regulations and additional EPA requirements. North Carolina meets these requirements through 15A NCAC 2D .0604 *Exceptions to Monitoring and Reporting Requirements;* 15A NCAC 2D .0605 *General Recordkeeping and Reporting Requirements;* 15A NCAC 2D .0611 *Monitoring Emissions from Other Sources;* 15A NCAC 2D .0612 *Alternative Monitoring and Reporting Procedures;* 15A NCAC 2D .0613 *Quality Assurance Program;* and 15A NCAC 2D .0614 *Compliance Assurance Monitoring.* In addition, 15A NCAC 2D .0605(c) *General Recordkeeping and Reporting Requirements* allows for the use of credible evidence in the event that the DAQ Director has evidence that a source is violating an emission standard or permit condition, the Director may require that the owner or operator of any source submit to the Director any information necessary to determine the compliance status of the source. In addition, EPA is unaware of any provision preventing the use of credible evidence in the North Carolina SIP. Also, NCGS 143–215.107(a)(4), *Air quality standards and classifications,* provides the EMC with the statutory authority "To collect information or to require reporting from classes of sources which, in the judgment of the [EMC], may cause or contribute to air pollution."

Stationary sources are required to submit periodic emissions reports to the State by Rule 15A NCAC 2Q .0207 "Annual Emissions Reporting." North Carolina is also required to submit emissions data to EPA for purposes of the National Emissions Inventory (NEI). The NEI is EPA's central repository for air emissions data. EPA published the Air Emissions Reporting Rule (AERR) on December 5, 2008, which modified the requirements for collecting and reporting air emissions data. *See* 73 FR 76539. The AERR shortened the time states had to report emissions data from 17 to 12 months, giving states one calendar year to submit emissions data. All states are required to submit a comprehensive emissions inventory every three years and report emissions for certain larger sources annually through EPA's online Emissions Inventory System. States report emissions data for the six criteria pollutants and the precursors that form them—nitrogen oxides, sulfur dioxides, ammonia, lead, carbon monoxide, particulate matter, and volatile organic compounds. Many states also voluntarily report emissions of hazardous air pollutants. North Carolina made its latest update to the 2011 NEI on June 3, 2014. EPA compiles the emissions data, supplementing it where necessary, and releases it to the general public through the Web site *http://www.epa.gov/ttn/chief/eiinformation.html.* EPA has made the preliminary determination that North Carolina's SIP and practices are adequate for the stationary source monitoring systems obligations for the 2012 Annual $PM_{2.5}$ NAAQS. Accordingly, EPA is proposing to approve North Carolina's infrastructure SIP submission with respect to section 110(a)(2)(F).

8. 110(a)(2)(G) Emergency powers: This section requires that states demonstrate authority comparable with section 303 of the CAA and adequate contingency plans to implement such authority. North Carolina's infrastructure SIP submission cites 15A NCAC 2D .0300 *Air Pollution Emergencies* as identifying air pollution emergency episodes and preplanned abatement strategies, and provides the means to implement emergency air pollution episode measures. Under NCGS 143–215.3(a)(12), *General powers of Commission and Department; auxiliary powers,* if NC DENR finds that such a "condition of . . . air pollution exists and that it creates an emergency requiring immediate action to protect the public health and safety or to protect fish and wildlife, the Secretary of the Department [NC DEQ] with the concurrence of the Governor, shall order persons causing or contributing to the . . . air pollution in question to reduce or discontinue immediately the emission of air contaminants or the discharge of wastes." In addition, NCGS 143–215.3(a)(12) provides NC DEQ with the authority to declare an emergency when it finds that a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. This statute also allows, in the absence of a generalized condition of air pollution, should the Secretary find "that the emissions from one or more air contaminant sources . . . is causing imminent danger to human health and safety or to fish and wildlife, he may with the concurrence of the Governor order the person or persons responsible for the operation or operations in question to immediately reduce or discontinue the emissions of air contaminants . . . or to take such other measures as are, in his judgment, necessary." EPA has made the preliminary determination that North Carolina satisfies the emergency powers obligations of the annual $PM_{2.5}$ NAAQS.

9. 110(a)(2)(H) SIP revisions: Section 110(a)(2)(H), in summary, requires each SIP to provide for revisions of such plan (i) as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) whenever the Administrator finds that the plan is substantially inadequate to attain the NAAQS or to otherwise comply with any additional applicable requirements. DAQ is responsible for adopting air quality rules and revising SIPs as needed to attain or maintain the NAAQS in North Carolina. NCGS 143–215.107(a)(1) and (a)(10) grant DAQ the authority to prepare and develop, after proper study, a comprehensive plan for the prevention of air pollution and implement the CAA, respectively. These provisions also provide DAQ the ability and authority to respond to calls for SIP revisions, and North Carolina has provided a number of SIP revisions over the years for implementation of the NAAQS. In addition, State regulation 15A NCAC 2D .2401(d) states that "The EMC may specify through rulemaking a specific emission limit lower than that established under this rule for a specific source if compliance with the lower emission limit is required to attain or maintain the ambient air quality standard for ozone or $PM_{2.5}$ or any other ambient air quality standard in Section 15A NCAC 2D .0400." EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate a commitment to provide future SIP revisions related to the 2012 Annual $PM_{2.5}$ NAAQS, when necessary.

10. 110(a)(2)(J) Consultation with Government Officials, Public Notification, and PSD and Visibility Protection: EPA is proposing to approve North Carolina's infrastructure SIP for the 2012 Annual $PM_{2.5}$ NAAQS with respect to the general requirement in section 110(a)(2)(J) to include a program in the SIP that complies with the applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility protection. With respect to North Carolina's infrastructure SIP submission related to the *preconstruction PSD permitting,* EPA is not proposing any action in this rulemaking regarding these requirements and instead will act on these portions of the submission in a separate action. EPA's rationale for its proposed action regarding applicable consultation requirements of section 121, the public notification requirements of section 127, and visibility is described below.

Consultation with government officials (121 consultation): Section 110(a)(2)(J) of the CAA requires states to provide a process for consultation with local governments, designated organizations and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements pursuant to section 121 relative to consultation. 15A NCAC 2D .1600 *General Conformity,* 15A NCAC 2D .2000 *Transportation Conformity,* and 15A NCAC 2D .0531 *Sources in Nonattainment Areas,* along with the State's Regional Haze Implementation Plan, provide for consultation with government officials whose jurisdictions might be affected by SIP development activities. Specifically, North Carolina adopted state-wide consultation procedures for the implementation of transportation conformity. Implementation of transportation conformity as outlined in the consultation procedures requires DAQ to consult with Federal, state and local transportation and air quality agency officials on the development of motor vehicle emissions budgets. The Regional Haze SIP provides for consultation between appropriate state, local, and tribal air pollution control agencies as well as the corresponding FLMs. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate that the State meets applicable requirements related to consultation with government officials for the 2012 Annual $PM_{2.5}$ NAAQS when necessary for the consultation with government officials element of section 110(a)(2)(J).

Public notification (127 public notification): Rule 15A NCAC 2D .0300 *Air Pollution Emergencies* provides North Carolina with the authority to declare an emergency and notify the public accordingly when it finds a generalized condition of water or air pollution which is causing imminent danger to the health or safety of the public. Additionally, the DAQ has the North Carolina Air Awareness Program which is a program to educate the public on air quality issues and promote voluntary emission reduction measures. The DAQ also features a Web page providing ambient monitoring information regarding current and historical air quality across the State at *http://www.ncair.org/monitor/.* North Carolina participates in the EPA AirNOW program, which enhances public awareness of air quality in North Carolina and throughout the country. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide public notification related to the 2012 Annual $PM_{2.5}$ NAAQS when necessary for the public notification element of section 110(a)(2)(J).

Visibility protection: EPA's 2013 Guidance notes that it does not treat the visibility protection aspects of section 110(a)(2)(J) as applicable for purposes of the infrastructure SIP approval process. NC DEQ referenced its regional haze program as germane to the visibility component of section 110(a)(2)(J). EPA recognizes that states are subject to visibility protection and regional haze program requirements under part C of the Act (which includes sections 169A and 169B). However, there are no newly applicable visibility protection obligations after the promulgation of a new or revised NAAQS. Thus, EPA has determined that states do not need to address the visibility component of 110(a)(2)(J) in infrastructure SIP submittals so NC DENR does not need to rely on its regional haze program to fulfill its obligations under section 110(a)(2)(J). As such, EPA has made the preliminary determination that North Carolina's infrastructure SIP submission is approvable for the visibility protection element of section 110(a)(2)(J) related to the 2012 Annual $PM_{2.5}$ NAAQS and that North Carolina does not need to rely on its regional haze program to satisfy this element.

11. 110(a)(2)(K) Air Quality Modeling and Submission of Modeling Data: Section 110(a)(2)(K) of the CAA requires that SIPs provide for performing air quality modeling so that effects on air quality of emissions from NAAQS pollutants can be predicted and submission of such data to the EPA can be made. This infrastructure requirement is met through emissions data collected through 15A NCAC 2D .0600 *Monitoring: Recordkeeping: Reporting* (authorized under NCGS 143–215.107(a)(4)), which requires sources to provide information needed to model potential impacts on air quality). NCGS 143–215.107(a) also provides authority for the EMC to determine by means of field sampling and other studies, the degree of air contamination and air pollution in the state. Collectively, these regulations demonstrate that North Carolina has the authority to perform air quality modeling and to provide relevant data for the purpose of predicting the effect on ambient air quality of the 2012 Annual $PM_{2.5}$ NAAQS. The submittal also states that DAQ currently has personnel with training and experience to conduct source-oriented dispersion modeling that would likely be used in $PM_{2.5}$ NAAQS applications with models approved by EPA. Additionally, North Carolina participates in a regional effort to coordinate the development of emissions inventories and conduct regional modeling for several NAAQS, including the 2012 Annual $PM_{2.5}$ NAAQS, for the Southeastern states. Taken as a whole, North Carolina's air quality regulations and practices demonstrate that DAQ has the authority to provide relevant data for the purpose of predicting the effect on ambient air quality of any emissions of any pollutant for which a NAAQS has been promulgated, and to provide such information to the EPA Administrator upon request. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate the State's ability to provide for air quality modeling, along with analysis of the associated data, related to the 2012 Annual $PM_{2.5}$ NAAQS.

12. 110(a)(2)(L) Permitting fees: This element necessitates that the SIP require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a fee sufficient to cover: (i) The reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

To satisfy these requirements, North Carolina's infrastructure SIP submission cites Regulation 15A NCAC 2Q .0200 *Permit Fees,* which requires the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under the CAA, a sufficient fee to cover the costs of the permitting program. The 15A NCAC 2D .0500 and 2Q .0500 rules contain the State's title V program[22] which includes provisions to implement and enforce PSD and NNSR permits once these permits have been issued. The fees collected under 15A NCAC 2Q .0200 also support this activity. NCGS 143–215.3, *General powers of Commission and Department; auxiliary Powers,* provides authority for DAQ to require a processing fee in an amount sufficient for the reasonable cost of reviewing and acting upon PSD and NNSR permits. EPA has made the preliminary determination that North Carolina's SIP and practices adequately provide for permitting fees related to the 2012 Annual $PM_{2.5}$ NAAQS, when necessary.

13. 110(a)(2)(M) Consultation and Participation by Affected Local Entities: Section 110(a)(2)(M) of the Act requires states to provide for consultation and participation in SIP development by local political subdivisions affected by the SIP. 15A NCAC 2D .0530 *Prevention of Significant Deterioration* requires that NC DEQ notify the public, including affected local entities, of PSD permit applications and associated information related to PSD permits, and the opportunity for comment prior to making final permitting decisions. NCGS 150B–21.1 and 150B–21.2 authorize and require DAQ to advise, consult, cooperate and enter into agreements with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the Department. Also, 15A NCAC 2D .2000 *Transportation Conformity* requires a consultation with all affected partners to be implemented for transportation conformity determinations. Furthermore, DAQ has demonstrated consultation with, and participation by, affected local entities through its work with local political subdivisions during the developing of its Transportation Conformity SIP, Regional Haze Implementation Plan, and the 8-Hour Ozone Attainment Demonstration for the North Carolina portion of the Charlotte-Gastonia-Rock Hill NC-SC nonattainment area. EPA has made the preliminary determination that North Carolina's SIP and practices adequately demonstrate consultation with affected local entities related to the 2012 Annual $PM_{2.5}$ NAAQS, when necessary.

V. Proposed Action

EPA is proposing to approve that portions of DAQ's infrastructure SIP submission, submitted December 4, 2015, for the 2012 Annual $PM_{2.5}$ NAAQS, has met the above described infrastructure SIP requirements. The PSD permitting requirements for major sources of section 110(a)(2)(C) and (J), the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), will not be addressed by EPA at this time. EPA is proposing to approve these portions of North Carolina's infrastructure SIP submission for the 2012 Annual $PM_{2.5}$ NAAQS because these aspects of the submission are consistent with section 110 of the CAA.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: July 8, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–17301 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

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[22] Title V program regulations are federally-approved but not incorporated into the federally-approved SIP.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0241; FRL–9948–07–Region 9]

Approval of California Air Plan Revisions, El Dorado County Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the El Dorado County Air Quality Management District (EDCAQMD) portion of the California State Implementation Plan (SIP) under the Clean Air Act (CAA or the Act). This revision describes actions that EDCAQMD must take in the event of dangerously high ambient ozone concentration levels.

DATES: Any comments on this proposal must arrive by August 22, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0241 at *http://www.regulations.gov,* or via email to *Steckel.Andrew@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, EPA Region IX, (415) 947 4115, *Steckel.Andrew@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA. In the Rules and Regulations section of this **Federal Register**, we are approving the EDCAQMD Ozone Emergency Episode Plan in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in a subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: June 13, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–17172 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0583; FRL–9949–23–Region 9]

Approval of California Air Plan Revisions, Mojave Desert Air Quality Management District, Riverside County Air Pollution Control District, and San Bernardino County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve rescissions from the Mojave Desert Air Quality Management District (MDAQMD), Riverside County Air Pollution Control District (RCAPCD), and San Bernardino County Air Pollution Control District (SBCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern superseded New Source Review (NSR) rules. We are proposing to approve the rescission of rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by August 22, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2015–0583 at *http://www.regulations.gov,* or via email to *mailto:R9AirPermits@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407, *lawrence.laura@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA. This proposal addresses the rescission of RCAPCD Rules 213, 213.1, and 213.2 and SBCAPCD Rules 213, 213.1, and 213.2 from the Mojave Desert portion of the California SIP. In the Rules and Regulations section of this **Federal Register**, we are approving the rescission of these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: June 24, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–17169 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 62

[EPA–HQ–OAR–2016–0033; FRL–9949–36–OAR]

RIN 2060–AS84

Clean Energy Incentive Program Design Details; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On June 30, 2016, the Environmental Protection Agency (EPA) proposed a rule titled, "Clean Energy Incentive Program Design Details." The EPA is extending the comment period on the proposed rule that was scheduled to close on August 29, 2016, by four days until September 2, 2016. The EPA is making this change to align the public comment period with the public hearing submittal time frame.

DATES: The public comment period for the proposed rule published in the **Federal Register** on June 30, 2016 (81 FR 42940), is being extended. Written comments must be received on or before September 2, 2016.

ADDRESSES: The EPA has established a docket for the proposed rulemaking (available at *http://www.regulations.gov*). The Docket ID No. is EPA–HQ–OAR–2016–0033. Information on this action is posted at *https://www.epa.gov/cleanpowerplan/clean-energy-incentive-program*. Submit your comments, identified by the appropriate Docket ID No. to the *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit *http://www.epa.gov/dockets/comments.html* for instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/comments.html*.

FOR FURTHER INFORMATION CONTACT: For additional information on this action, contact Dr. Tina Ndoh, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–04), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2750; email address: *ndoh.tina@epa.gov*.

SUPPLEMENTARY INFORMATION: To provide administrative simplicity for stakeholders by aligning the public comment period on the proposal with the 30-day timeframe for submissions after the public hearing on August 3, 2016, the EPA has decided to extend the public comment period until September 2, 2016.

Dated: July 13, 2016.

Michael Koerber,

Associate Director, Office of Air Quality Planning and Standards.

[FR Doc. 2016–17279 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 120201087–6529–01]

RIN 0648–BB86

International Affairs; Antarctic Marine Living Resources Convention Act

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes revising the regulations that implement conservation measures adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR or Commission). These revisions would be in addition to those proposed on December 29, 2015, that would revise procedures and requirements for filing import, export, and re-export documentation for certain fishery products, to integrate the collection of trade documentation within the government-wide International Trade Data System (ITDS) and require electronic information collection. The purposes of the revisions in this proposed rule are to streamline and clarify the regulations, shift deadlines for advance notice of intended fishing activities, distinguish between first receivers and dealers of Antarctic marine living resources (AMLR), reduce the time for advance notice of imports of *Dissostichus* species, and add transshipment notification requirements. The sections of these regulations would be reorganized to group requirements related to the trade of Antarctic marine living resources and those that apply to fishing activities. Additionally, this action would update the regulations to reflect Commission adopted revisions to existing conservation measures and changes made to the Antarctic Marine Living Resources Convention Act through the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015.

DATES: Written comments must be received by August 22, 2016.

ADDRESSES: Written comments on this action, identified by NOAA–NMFS–2016–0076, may be submitted by either of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0076*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

Mail: Mi Ae Kim, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Mi Ae Kim, Office of International Affairs and Seafood Inspection, NMFS (phone 301–427–8365, fax 301–713–2313, or email *mi.ae.kim@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

The United States is a Contracting Party to the Convention on the Conservation of Antarctic Marine Living Resources (Convention). Under Article VII of the Convention, contracting parties established and agreed to maintain the Commission to give effect to the Convention's objective—conservation of AMLR. The United States, along with 23 other countries and the European Union, are members of the Commission and meet annually to formulate, adopt and revise conservation measures. Article IX(6) of the Convention requires the Commission to notify conservation measures to all members and, 180 days thereafter, such measures become binding. If a member objects to a measure within 90 days of notification, the measure is not binding on that member, and Article IX(6)(d) of the Convention includes a procedure that allows other members to notify that they can no longer accept that measure.

The Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA), codified at 16 U.S.C. 2431, *et seq.*, provides the statutory authority for the United States to carry out its obligations under the Convention, including implementation of Commission adopted conservation measures. AMLRCA section 305(a)(1) authorizes the Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, to decide whether the United States is unable to accept or can no longer accept a Commission adopted conservation measure (16 U.S.C. 2434(a)(1)). AMLRCA also gives the Secretary of Commerce authority to promulgate regulations as necessary and appropriate to implement the Act. This authority has been delegated to the Assistant Administrator for Fisheries (Assistant Administrator), who has implemented Commission adopted conservation measures that are binding on the United States under Article IX of the Convention through regulations at 50 CFR part 300, subpart G (AMLR regulations).

Through the "Illegal, Unreported, and Unregulated Fishing Enforcement Act" (IUU Fishing Enforcement Act), Public Law 114–81 (2015), Congress amended AMLRCA section 306, 16 U.S.C. 2435, which specifies unlawful activities; section 307, 16 U.S.C. 2436, which provides the Secretary of Commerce authority to promulgate regulations that are necessary and appropriate to implement AMLRCA; and section 308(a), 16 U.S.C. 2437(a), which specifies the penalties available for violations of the Act. Public Law 114–81 (2015), Title I, 106(1)–(2). The amendments to sections 306 and 307 are further discussed below; no regulatory changes are necessary to implement the amendments to section 308(a).

At each annual meeting, the Commission may adopt new conservation measures or revise existing measures. The current and past versions of the conservation measures are available on the Commission Web site: *http://www.ccamlr.org.* The conservation measures are organized by categories, including compliance, general fishery matters, fishery regulations, and protected areas, with each category designated by a two-digit code. While all conservation measures are subject to revision at the annual meeting, some (particularly those in the fishery regulation category) expire after one or two fishing seasons and so must be revised annually or biennially, to reflect management or monitoring needs identified during Commission deliberations, changes in catch limits or bycatch limits, or other considerations.

Through this action, NMFS would reorganize, streamline, and update the regulations that implement AMLRCA and Commission adopted conservation measures. These revisions would be in addition to those proposed in 80 FR 81251, December 29, 2015, hereinafter referred to as the rule for electronic reporting of trade documentation, which integrates the collection of trade documentation within the government-wide ITDS and requires electronic information collection. Certain sections are rearranged so that regulations applicable to the trade of AMLR are grouped together while other sections that are obsolete are removed. This action removes sections that implement annual measures which generally will be implemented through vessel permits if applicable to the permitted fishing activities. Table 1 identifies how the sections of the current regulations will be designated by this action.

TABLE 1—PROPOSED REORGANIZATION OF 50 CFR PART 300, SUBPART G

Current structure	Proposed designation
300.100 Purpose and scope	Same.
300.101 Definitions	Same.
300.102 Relationship to other treaties, conventions, laws, and regulations.	Same.
300.103 Procedure for according protection to CEMP Sites	Moved to 300.113.
300.104 Scientific research	Moved to 300.103.
300.105 Initiating a new fishery	Moved to 300.109.
300.106 Exploratory fisheries	Moved to 300.110.
300.107 Reporting and recordkeeping requirements	DCD Requirements moved to 300.106 and first receiver and vessel reporting and recordkeeping requirements moved to 300.104 and 300.107, respectively.
300.108 Vessel and gear identification	Same.
300.109 Gear disposal	Removed.
300.110 Mesh size	Removed.
300.112 Harvesting permits	Moved to 300.107.
300.113 Scientific observers	Moved to 300.111.
300.114 Dealer permits and preapproval	Moved to 300.104 (permits) and 300.105 (preapprovals).
300.115 Appointment of a designated representative	Removed.
300.116 Requirements for a vessel monitoring system for U.S. vessels.	Moved to 300.112.
300.117 Prohibitions	Moved to 300.114.
300.118 Facilitation of enforcement and inspection	Moved to 300.115.
300.119 Penalties	Moved to 300.116.

This proposed rule would delete all references from the current version of the AMLR regulations to section 300.111 which was removed and reserved by a final rule published on April 9, 2010 (75 FR 18111).

Definitions

This action would remove the following definitions from 50 CFR 300.101:

"Antarctic finfish" would be removed because the list of species in the current definition contains only a subset of all Antarctic finfish species and also because the AMLR regulations do not reference this term.

"Directed fishing" would be removed because the sections that refer to this term, gear disposal and mesh size provisions, are being removed through this rulemaking for reasons stated below.

"Port State" would be removed because the AMLR regulations do not reference this term.

This action would revise the following definitions in 50 CFR 300.101:

"Centralized Vessel Monitoring System (C–VMS)" and "Vessel Monitoring System (VMS)" would be revised and updated to more accurately describe these systems. For example, C–VMS is operated by the Secretariat of CCAMLR and receives position and other information from mobile transceiver units on vessels, either directly or through the flag State, but these aspects are not reflected in the current definition. The updated VMS definition would reflect the current use of enhanced mobile transceiver units, which have replaced mobile transceiver units. The revised definition reflects how such units are linked to satellites and provide automatic reports of positional and other information.

"Convention waters" would be revised to "Convention Area" throughout the subpart to be consistent with terminology used in the Convention and in Commission adopted conservation measures.

"Dealer" is currently defined as the person who first receives AMLR from a harvesting vessel or transshipment vessels or who imports AMLR into, or re-exports AMLR from, the United States. It would be modified to mean the person who imports AMLR into, or exports or re-exports AMLR from, the United States. It would no longer include persons that first receive AMLR from a harvesting vessel or transshipment vessel. See below for explanation of a new definition of "first receiver."

"Dissostichus catch document (DCD)" would be revised to update the term to reflect changes in Conservation Measure 10–05. These revisions are explained further below.

"Landing or landed" would be revised, for purposes of catch documentation requirements to be implemented under section 300.106, in accordance with the definition provided in Conservation Measure 10–05.

"Mobile transceiver unit" would be changed to "enhanced mobile transceiver unit or EMTU" to reflect the current technology of these systems which includes two-way communication functionality.

"Real-time" would be revised to reflect revisions to Conservation Measure 10–04 that were adopted at the 2015 annual CCAMLR meeting. Conservation Measure 10–04 had required all vessels in the Convention Area to report positions at 4-hour intervals, but now requires position reporting from vessels in the Convention Area on an hourly basis for finfish fisheries and, as of December 1, 2019, for all other fisheries.

"Scientific research activity" would be removed for consistency with proposed changes to § 300.103 which applies to scientific research conducted in the Convention Area. As discussed further below, revisions to regulations on scientific research conducted in the Convention Area are necessary to implement Conservation Measure 24–01 which sets forth how conservation measures apply to scientific research and requires reporting of certain research activities to the Commission.

"Tranship or transshipment" which currently, with some exceptions, means the transfer of fish or fish products from one vessel to another would be revised to reflect how that term is defined in Conservation Measure 10–09, the measure that requires notification of transshipment activities in the Convention Area. The definition would be further revised to be consistent with the definition of transshipment, provided in Conservation Measure 10–05, for purposes related to catch documentation to be implemented under proposed § 300.106.

The action would add the following definitions:

"First receiver" would be defined as the person who first receives AMLRs landed from a vessel licensed under § 300.107 at a U.S. port. This term is added to make a clear distinction between dealers and first receivers. This distinction is needed because dealers of AMLR will be subject to permitting requirements under the rule for electronic reporting of trade documentation (80 FR 81251, December 29, 2015) when that rule is finalized. As explained further below, first receivers of AMLR will continue to be subject to permitting requirements under the AMLRCA regulations.

"Dissostichus export document (DED)" and "Dissostichus re-export document (DRED)" would be added to implement revisions to Conservation Measure 10–05. Currently, the regulations use the term "Dissostichus catch document" to include export and re-export documents, as well as documentation of harvest, transshipment, and landing. The new terminology clarifies that the DED documents export information and the DRED documents re-export information. The "Dissostichus catch document" or "DCD" would be defined as a document that includes information related to harvest, transshipment, and landing.

Section 300.103 Scientific Research

This proposed rule would revise the research notification requirements and remove paragraphs that refer to an obsolete section. These revisions are necessary to reflect Commission adopted revisions to Conservation Measure 24–01 which applies to scientific research in the Convention Area. Currently, persons planning to use a vessel for research purposes, who expect to catch less than 50 tonnes (metric tons) of AMLR, must provide notification to the Assistant Administrator at least 2 months in advance of planned research. Where catch is expected to be more than 50 tonnes, this notification must be provided at least 7 months in advance of the planned starting date for the research.

In this proposed rule, these advance notification requirements would apply if expected catches are one tonne or more of finfish or krill, or when gear other than longline, trawl, or pot would be used to catch *Dissostichus* spp. For clarity, this rule would add Table 1 to the regulations, which would identify taxa-specific thresholds for advance notification of research vessel activity. Advance notification at least 2 months before the planned start of research fishing would be required for amounts of expected catch that are less than 50 tonnes of finfish in a season and no more than the amounts specified in Table 1. Advance notification of at least 7 months would be required for research that would involve expected catches more than 50 tonnes or more than the amounts specified in Table 1. CCAMLR Formats would need to be used in providing the notifications to the Assistant Administrator.

The proposed rule would also require that research fishing not proceed until the Assistant Administrator authorizes the person in writing that he or she may proceed when the expected catch is more than 50 tonnes of fish or greater than the amounts specified in Table 1. Such authorization may be provided after the completion of review of the scientific research plan by the CCAMLR Scientific Committee and the Commission.

Section 300.104 International Fisheries Trade Permits and AMLR First Receiver Permits

The provisions related to AMLR dealer permits and preapprovals are currently combined. This proposed rule would clearly separate these processes because the preapproval process applies only to imports of frozen *Dissostichus* spp. and not to imports of fresh *Dissostichus* spp. or other AMLR species. As explained above, this proposed rule would also revise the definition of a "dealer" and establish a definition for "first receiver." This would enable NMFS to apply different requirements for dealer activities (importing/exporting/re-exporting AMLR) and first receiver activities (*i.e.*, receiving AMLR, that have not previously been landed, from a harvesting or transshipment vessel at a U.S. port of landing). Through the proposed rule for electronic reporting of trade documentation (80 FR 81251, December 29, 2015), NOAA would establish an International Fisheries Trade Permit (IFTP) for the import, export, and re-export of AMLR and other regulated seafood commodities that are subject to trade monitoring programs of regional fishery management organizations or arrangements and/or subject to trade documentation requirements under domestic law. The IFTP would replace the AMLR dealer permit. The IFTP would cover activities currently authorized under an AMLR dealer permit but would not apply to first receivers of AMLR. Accordingly, in anticipation of establishment of the IFTP, this proposed rule would establish a permit requirement and procedure for first receivers of AMLR that is distinct and separate from the requirement and procedure for AMLR dealers. This will enable NMFS to continue to monitor and obtain information about first receiver activities.

Current regulations (50 CFR 300.114(k)) allow foreign entities to possess a dealer permit on the condition that the entity designate and maintain a resident agent within the United States that is authorized to accept service of process on behalf of that entity. NMFS proposes to remove section 300.114(k), as the proposed rule for electronic reporting of trade documentation (80 FR 81251, December 29, 2015) would require any person (including a resident agent of a nonresident corporation) who imports, exports or re-exports AMLR to have a valid IFTP.

Section 300.105 Preapproval for importation of Frozen Dissostichus Species

As mentioned, this proposed rule would create a separate section for the procedures related to issuance of a preapproval certificate for imports of frozen *Dissostichus* spp. This proposed rule would also change the preapproval certificate application deadline for imports of frozen *Dissostichus* spp. from 15 to 10 working days before the anticipated date of importation to provide a more reasonable timeframe for submitting applications while still allowing sufficient time for NMFS to evaluate them. The proposed rule includes clarification regarding when NMFS will not issue a preapproval certificate for importation of frozen *Dissostichus* spp., *e.g.*, when the *Dissostichus* spp. was harvested or transshipped in contravention of any CCAMLR conservation measure in force at the time of harvest or transshipment. The proposed rule includes additional minor, non-substantive changes to clarify the requirements related to the importation of frozen *Dissostichus* spp.

Under this proposed rule, NMFS would continue to charge a fee for reviewing and processing applications for a preapproval certificate that authorizes importation of a shipment of frozen *Dissositichus* spp. The methodology for calculating the fee is based on procedures in the NOAA Finance Handbook for determining administrative costs of special products and services. See NOAA Finance Handbook at Chapter 9, Section 10, "Instructions for Completing the NOAA Product/Service Cost Computation Form." The NOAA Finance Handbook may be obtained by contacting NMFS (see **ADDRESSES**) or online at the NOAA's Office of the Chief Financial Officer website: *http://www.corporateservices.noaa/gov/noaa/cfohome.html.*

Section 300.106 Catch Documentation Scheme (CDS) Documentation and Other Requirements

This proposed rule would provide a distinct section in the regulations for requirements under Conservation Measure 10–05, CCAMLR's electronic Catch Documentation Scheme (CDS). CCAMLR's CDS allows tracking of *Dissostichus* spp. from harvest through the trade cycle, including transhipment, landing, import, export, and re-export. For imports of fresh *Dissostichus*, spp., a report of the shipment will need to be submitted to NMFS even if the amount or value of the *Dissostichus* spp. is below the threshold that triggers the requirement to file entry documentation with U.S. Customs and Border Protection.

The proposed section 300.106 would contain a number of existing requirements related to CDS documents, such as the following: vessels masters must provide information on the harvest or transshipment of *Dissostichus* spp. and submit the DCD to NMFS and to each recipient of the catch; upon landing, first receivers must sign the DCD; and dealers must obtain necessary signatures, check the quantity of toothfish with that list on the DED or DRED and provide the DED and DRED and other information when importing, exporting, or re-exporting *Dissostichus* spp. The DED and DRED are new terms that the Commission incorporated into Conservation Measure 10–05 in 2014.

This proposed rule would remove from the regulations the list of information specified in the applications for re-export of *Dissostichus* spp. because that information is captured in the application form that must be completed in order to receive approval to re-export or export *Dissostichus* spp.

Section 300.107 Vessel Permits and Requirements

This proposed rule would replace the term "harvesting permits" with "vessel permits." NMFS proposes this change to ensure that the terminology encompasses vessels that engage in harvesting or associated activities such as transshipment at sea in support of harvesting. Transshipment vessels are currently required to obtain a "havesting permit" and thus this change in terminology would clarify but not change the scope of requirement. To allow time for NMFS to review permit applications and provide information to the Commission Secretariat, if appropriate, by the June 1 deadline for some fisheries, this proposed rule would change the deadline for vessel permit applications to April 1 that precedes the fishing season (generally December 1 to November 30) in which the fishing or associated activities are expected to occur. The current deadline in the regulation is June 1, which does not allow any time for review by NMFS prior to the deadline for submission of fishing notitifications to CCAMLR.

Under this proposed rule, NMFS would accept vessel permit applications only for U.S. vessels that have been issued an International Maritime Organization or IMO number, consistent with Commission adopted revisions to Conservation Measure 10–02. IMO numbers are unique vessel identifiers that remain with the vessel and allow for tracking of the vessel regardless of any changes to its name, call sign, flag or other identifying information.

This proposed rule would add 300.107(k) to implement Conservation Measure 10–09, which applies to transshipments in the Convention Area. Under proposed 300.107(k), a vessel operator would be required to provide advance notification of any transshipment within the Convention Area, of AMLRs or of any other goods or materials, to the CCAMLR Secretariat directly and to submit a confirmation of such notification to NMFS Headquarters.

Additionally, this proposed rule would remove regulatory text codified at § 300.115 regarding the appointment of a designated representative for holders of permits authorizing fishing in Subarea 48.3. This requirement will be included as a vessel permit condition if necessary and applicable to the authorized fishery and gear types.

Section 300.108 Vessel and Gear Identification

This proposed rule would revise existing regulations to implement Commission adopted revisions to Conservation Measure 10–01 related to the marking of fishing vessels and fishing gear. Previously, this conservation measure required that fishing vessels be marked so that they can be readily identified, in accordance with internationally recognized standards such as the FAO Standard Specifications and Guidelines for the Marking and Identification of Fishing Vessels. Revisions to the conservation measure now specify the location, coloring, size, and maintenance requirements for vessel and gear markings, and the proposed rule includes these requirements.

Section 300.109 Initiating a New Fishery

This proposed rule would revise the deadline for notification of intent to participate in a new fishery to ensure that NMFS is able to satisfy the requirements of Conservation Measure 21–01 (Notification that members are Considering Initiating a New Fishery). Per this proposed rule, the deadline would be changed from July 1 to April 1 that precedes the fishing season (generally December 1 to November 30) in which the fishing activities are expected to occur. This revision would provide NMFS time to review the information provided by the applicant before submittal to the Commission Secretariat. Because Conservation Measure 21–01 requires that Commission members submit to the Commission Secretariat information about the vessel proposing to participate in a new fishery, this proposed rule requires that the notification shall be accompanied by a complete vessel permit application, which includes the requisite vessel information. Because bottom trawling on the high seas of the Convention Area is considered a new fishery under Conservation Measure 21–01, this proposed rule would add to § 300.109 a requirement to provide information on any fishery that uses bottom trawl gear. This proposed rule revises section 300.109(c)(1) to reflect requirements in Conservation Measure 21–01 to provide a maximum catch level for the forthcoming season instead of the current regulation requiring "minimum level of catches that would be required to develop a viable fishery."

Section 300.110 Exploratory Fisheries

This proposed rule would revise the deadline for notification of intent to participate in an exploratory fishery to ensure that NMFS is able to satisfy the requirements of Conservation Measure 21–02 (Exploratory Fisheries). The deadline would be changed from July 1 to April 1 that precedes the fishing season (generally December 1 to November 30) in which the fishing activities are expected to occur. This revision would provide NMFS time to review the information prior to submission to the Commission Secretariat. Because Conservation Measure 21–02 requires that Commission members submit information about the vessel proposing to participate in an exploratory fishery to the Commission Secretariat, this rule would require that the notification shall be accompanied by a complete vessel permit application, which includes the requisite vessel information. Proposed section 300.110(e) would also require that additional information be submitted with the notification so that the United States can comply with Conservation Measure 21–02 when notifying the Commission about the permittee's intent to participate in an exploratory fishery.

Section 300.111 Scientific Observers

This proposed rule would maintain but reorganize the requirements related to carrying of scientific observers aboard U.S. vessels permitted to harvest AMLR in the Convention Area.

Section 300.113 CCAMLR Ecosystem Monitoring Program Sites

This proposed rule would remove the duration and permit modification request elements of the regulation that implements Conservation Measure 91–01 (CCAMLR Ecosystem Management Program). Duration would be specified within the CCAMLR Ecosystem Monitoring Program (CEMP) permit itself rather than by regulation. Persons seeking any modifications of their permit before it expires would need to submit a new application.

This proposed rule removes the list of CEMP sites because these sites (Seal Islands, South Shetland Islands and Cape Shirreff and the San Telmo Islands) are no longer protected under Conservation Measure 91–01. Additionally, this rule would remove the phrase "when it enters into force" in reference to the Protocol on Environmental Protection to the Antarctic Treaty and its Annexes because they have entered into force.

Section 300.114 Prohibitions

This proposed rule would revise § 300.114, Prohibitions, by removing text regarding gear restrictions on trawl mesh size and requirements to use measures to minimize incidental mortality of seabirds and marine mammals. NMFS would implement these measures as conditions to a vessel permit if applicable to the authorized fishery and gear type. The regulations would continue to specify under proposed 300.114(l) that it is unlawful for any person to violate or attempt to violate the conditions of any permit issued under AMLRCA. Additionally, to be consistent with the IUU Fishing Enforcement Act amendments to AMLRCA section 306, 16 U.S.C. 2435, noted above, this rule would revise § 300.114 by: (1) Removing the words "knew or should have known" from the prohibition in 300.114(d) relating to trade in AMLR harvested in violation of a conservation measure that is in force with respect to the United States; and, (2) amending 300.114(e) and (h) to add "investigation" to make it unlawful for a person to refuse to allow any authorized officer to board a vessel for that purpose.

Implementation of New or Revised Conservation Measures Adopted and Notified by the Commission

Proposed section 300.102(d) of this rule would clarify that NMFS may apply exemptions to Administrative Procedure Act (APA) requirements when implementing conservation measures that have been adopted and notified by the Commission. This proposed approach would apply only to conservation measures that do not require the development of policy options or a regulatory framework.

NMFS would provide for notice-and-comment rulemaking when implementation of a conservation measure implicates other requirements of domestic law or when NMFS needs to interpret or expand upon a conservation measure.

Proposed section 300.102(e) would further clarify that NMFS would generally implement annual or biennial measures as conditions to vessel permits instead of through regulations. Annual or biennial measures are conservation measures that apply to the operation of the Convention's commercial or exploratory fisheries and include, among other measures, gear, catch, and effort restrictions and time and area closures. (See proposed definition below). These types of measures generally expire after one or two fishing seasons and therefore are referred to as annual or biennial measures.

This section provides background and an explanation for the application of APA exemptions, the use of permit conditions, and generally describes the regulations that would be added to codify this approach to implementation of certain conservation measures.

NMFS has had different practices for implementation of annual and biennial measures. The Commission adopts these and other conservation measures at its annual meeting, which is usually held in October. Shortly after the conclusion of each annual meeting, the Commission provides members formal notification of adopted conservation measures as required under the Convention's procedure for member implementation of adopted Conservation Measures at Article IX. Under the Commission's usual schedule, notification is generally provided within the first few days of November. The fishing season for fisheries managed under the Convention generally commences on December 1 and ends on November 30 of the following year.

This tight timing has presented challenges for NMFS in implementing annual and biennial measures in a timely manner. NMFS has taken a few different approaches to address those challenges. Until 1996, NMFS promulgated regulations to implement adopted annual measures. In May of 1996, NMFS adopted a framework under which annual measures were implemented by regulatory notice rather than codified regulations. In April of 2010, NMFS rescinded that framework and stated that Commission adopted measures would be implemented through regulations or permit conditions as appropriate.

The approach in this proposed rule—use APA exemptions and permit conditions—will help to expedite implementation of annual or biennial measures and other conservation measures with respect to vessels of the United States and persons subject to United States jurisdiction. The APA generally requires prior notice of and an opportunity to comment on proposed rules, and a 30-day delay in effectiveness of final rules. 5 U.S.C. 553(b)–(d). However, there are two APA exemptions that NMFS may apply in implementation of conservation measures. First, because NMFS implements Commission adopted measures to satisfy the obligations of the United States under the Convention, the APA foreign affairs function exception, 5 U.S.C. 553(a)(1), is available.

Second, the IUU Fishing Enforcement Act explicitly added to AMLRCA an exemption from APA rulemaking requirements under 5 U.S.C. 553(b)–(d). Public Law 114–81, Title I, 106(2)(B); 16 U.S.C. 2436(b). The exemption may be applied only to implement Commission adopted measures that have been "in effect for 12 months or less." Id.; 16 U.S.C. 2436(b)(1)(A). NMFS proposes to interpret this "in effect" text as meaning the 12-month period that commences when the Commission provides notice of adopted conservation measures under Article IX of the Convention.

Proposed section 300.102(d) would provide that NMFS may apply either the APA foreign affairs function exception or the AMLRCA APA rulemaking exemption when implementing conservation measures that have been adopted and notified by the Commission. In either case, this proposed approach would apply only to conservation measures that do not require the development of policy options or a regulatory framework.

Proposed section 300.102(e) would provide that NMFS may implement annual and biennial measures as conditions to vessel permits instead of through regulations. Use of permit conditions would provide actual notice of the annual and biennial measures, consistent with the APA. *See* 5 U.S.C. 551(a)(1). Proposed section 300.101 of the rule would define "annual or biennial measure" as a conservation measure that: (1) Applies to the operation of the Convention's commercial or exploratory fisheries such as gear, catch, and effort restrictions and time and area closures; (2) generally expires after one or two fishing season(s); and (3) does not require the development of policy options or a regulatory framework. Consistent with this approach, this rule would remove existing regulations that implemented measures that NMFS intends to implement via permit condition, specifically, restrictions on gear disposal and mesh size.

NMFS notes that the APA exemption under AMLRCA applies only when the United States does not object to a measure. *See* 16 U.S.C. 2436(b)(1)(C) (applying exemption to conservation measures "with respect to which the Secretary of State, does *not* notify [sic] Commission in accordance with section 305(a)(1) within the time period allotted for objections under Article IX of the Convention" (emphasis added)). However, NMFS believes the introductory paragraph of section 2436(b)(1) as enacted by Congress has a typographical error: It refers to the exemption applying when the Secretary of State "notifies" the Commission of an objection. This does not make sense; the text should say "does not notify" as does section 2436(b)(1)(C). NMFS interprets the APA exemption consistent with AMLRCA section 2436(b)(1)(C).

NMFS also notes that, if implementation of a Commission adopted measure is exempt from APA rulemaking requirements, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, would also be inapplicable to those actions.

NMFS welcomes public comment on this proposed approach to implementation of Commission adopted measures and the regulations that would implement this approach under sections 300.102(d) and (e).

Classification

Antarctic Marine Living Resources Convention Act of 1984

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Antarctic Marine Living Resources Convention Act, codified at 16 U.S.C. 2431 *et seq.*, subject to further consideration following public comment.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA)

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule would further modify the AMLR regulations as proposed in the rule for electronic reporting of trade documentation (80 FR 81251, December 29, 2015). It would reorganize the regulations related to the trade of Antarctic marine living resources (AMLR) and those that apply to fishing activities; establish a distinction between first receivers and dealers of AMLR to ensure that NMFS is able to regulate the activities of first receivers when dealer activities are regulated under the rule for electronic reporting of trade documentation; change the regulatory deadlines including the requirement for advance notice of intended fishing activities from June 1 to April 1 to allow NMFS time for review of vessel permit applications and associated information prior to submitting to the CCAMLR Secretariat by its deadline of June 1; require advance notification of transshipments of AMLR, bait, or fuel or other goods; and change the advance notice deadline for imports of toothfish (*Dissostichus* spp.) from 15 to 10 working days to provide a more reasonable timeframe for such advance notice while still allowing time for NMFS to verify information.

Additionally, the proposed rule would implement the following revised elements of CCAMLR conservation measures:

- Reporting requirements for vessels that conduct scientific research activities in the Convention Area;
- A requirement that Contracting Parties provide IMO numbers for their flagged vessels that it authorizes to fish in the CCAMLR area;
- Terminology changes relating to the Dissostichus Catch Documentation Scheme (CDS) and providing for the use of the electronic CDS; and
- Specifications for the identification markings to be put on vessels and gear.

The proposed rule also revises regulations that specify prohibitions or unlawful acts to be consistent with the IUU Fishing Enforcement Act of 2015 amendments to AMLRCA section 306. Specifically, this rule proposes to (1) remove the words "knew or should have known" from the prohibition in 300.114(d) relating to trade in AMLR harvested in violation of a conservation measure that is in force with respect to the United States; and, (2) amending 300.114(e) and (h) to add "investigation" to make it unlawful for a person to refuse to allow any authorized officer to board a vessel for that purpose.

The proposed rule would also establish regulations that would allow NMFS to implement CCAMLR adopted annual or biennial conservation measures through vessel permit conditions rather than regulations. Lastly, the proposed rule would clarify certain regulatory requirements, and remove or update outdated items, such as references to previously deleted sections, and outdated web and mailing addresses.

This proposed rule would impact U.S. flagged vessels operating in the Convention Area and first receivers and dealers of AMLR. During the past several years, there have been no U.S. flagged vessels operating in the Convention Area and no U.S. entities that first receive AMLRs, but there are approximately 45 dealers who could fall within the scope of NMFS's AMLRCA regulations. Although NMFS does not have access to data about the business sizes of dealers that would be impacted by this proposed rule, it is likely that the majority would be considered small entities under the "Small Business Size Regulations" established by the SBA under 13 CFR 121.201.

Although all regulated entities are considered small under the SBA size standard, this rule is expected to have no economic impact on these regulated entities. The creation of a distinction between first receivers and dealers of AMLR and a modification of the deadline for advance notification for imports of toothfish are administrative provisions that would only minimally change dealer practices and are not expected to change dealer costs or revenues, and thus they are expected to be cost neutral. Other proposed changes applicable to fishing operations are also expected to be cost neutral as they do not add new requirements but rather only make technical changes. These proposed changes include the change in the deadline for advance notification of intended fishing practices, revisions to requirements for scientific research fishing, and vessel marking. The requirement for advance notification for transshipments may involve some cost for transmitting information to the CCAMLR Secretariat and NMFS but, given that there have been no U.S. vessels harvesting or transshipping under these regulations for several years, any cost impacts of this requirement is expected to be absorbed into the overall, high cost of initiating operation in the Convention Area.

NMFS' proposal that Commission adopted annual or biennial measures be implemented through vessel permits, as appropriate, is an administrative change that is expected to result in a more efficient scheme for regulating entities that fish in the Convention Area. As an administrative change, this approach to implementation of conservation measures would not increase the regulatory burden on entities that are subject to AMLRCA regulations or have any economic effects.

Finally, the proposed rule includes technical revisions to existing regulations to make the regulations more concise, better organized, and easier for the public to use. These changes would have little or no economic impact on any small entities.

For the above reasons, this proposed rule is not expected to have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

Paperwork Reduction Act

This proposed rule contains new collection-of-information requirements subject to the Paperwork Reduction Act (PRA). OMB approval of the new collections-of-information is being requested. This proposed rule also contains a collection-of-information approved by OMB under control number 0648–0194. The current, approved collection of information includes permit applications (CEMP, vessel permit, dealer permit, and pre-approval of toothfish imports), vessel and gear marking requirements, installation of and reporting through a vessel monitoring unit, import tickets, and other items. This proposed rule would add a requirement to provide advance notification of transshipments of AMLRs, bait, fuel, or other goods and materials to the CCAMLR Secretariat and to submit a confirmation of the notification to NMFS Headquarters, including information on the vessels involved in the transshipment and the details of the materials being transshipped. Public reporting burden for this proposed requirement is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

List of Subjects in 50 CFR Part 300

Antarctica, Antarctic marine living resources, Catch documentation scheme, Fisheries, Fishing, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 11, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. Under part 300, further revise subpart G—which was proposed to be amended on December 29, 2015 (80 FR 81251)—to read as follows:

Subpart G—Antarctic Marine Living Resources

Sec.

300.100 Purpose and scope.
300.101 Definitions.
300.102 Relationship to other treaties, conventions, laws, and regulations.
300.103 Scientific research.
300.104 International Fisheries Trade Permits and AMLR first receiver permits.
300.105 Preapproval for importation of frozen *Dissostichus* species.
300.106 Catch Documentation Scheme (CDS) documentation and other requirements.
300.107 Vessel permits and requirements.
300.108 Vessel and gear identification.
300.109 Initiating a new fishery.
300.110 Exploratory fisheries.
300.111 Scientific observers.
300.112 Vessel monitoring system.
300.113 CCAMLR Ecosystem Monitoring Program sites.
300.114 Prohibitions.
300.115 Facilitation of enforcement and inspection.
300.116 Penalties.

Subpart G—Antarctic Marine Living Resources

Authority: 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

§ 300.100 Purpose and scope.

(a) This subpart implements the Antarctic Marine Living Resources Convention Act of 1984 (AMLRCA or Act), 16 U.S.C. 2431 *et seq.*

(b) This subpart regulates—

(1) The harvesting of Antarctic marine living resources and other associated activities by any person subject to the jurisdiction of the United States or by any vessel of the United States.

(2) The import, export, and re-export into the United States of any Antarctic marine living resource.

§ 300.101 Definitions.

In addition to the terms defined in § 300.2, in the Act, and in the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980 (Convention) the terms used in this subpart have the following meanings for purposes of this subpart. If a term is defined differently in § 300.2, than in the Act, or Convention, the definition in this section shall apply.

ACA means the Antarctic Conservation Act of 1978 (16 U.S.C. 2401, *et seq.*).

Annual or biennial measure means a conservation measure that:

(1) Applies to the operation of the Convention's commercial or exploratory fisheries such as gear, catch, and effort restrictions and time and area closures;

(2) Generally expires after one or two fishing season(s); and

(3) Does not require the development of policy options or a regulatory framework.

Antarctic convergence means a line joining the following points along the parallels of latitude and meridians of longitude:

Lat.	Long.
50° S.	0.
50° S.	30° E.
45° S.	30° E.
45° S.	80° E.
55° S.	80° E.
55° S.	150° E.
60° S.	150° E.
60° S.	50° W.
50° S.	50° W.
50° S.	0.

Antarctic marine living resources or AMLR(s) means:

(1) The populations of finfish, mollusks, crustaceans, and all other species of living organisms, including birds, found south of the Antarctic Convergence;

(2) All parts or products of those populations and species set forth in paragraph (1) of this definition.

Centralized Vessel Monitoring System (C–VMS) means the system operated by the Secretariat of CCAMLR that receives reports of positional and other information from satellite-linked mobile transceiver units located on vessels, that are submitted to the CCAMLR Secretariat, either directly from the vessel or through the relevant flag State.

Commission or *CCAMLR* means the Commission for the Conservation of Antarctic Marine Living Resources established under Article VII of the Convention.

Convention area means all waters south of the Antarctic Convergence.

Dealer means a person who imports AMLRs into, or exports or re-exports AMLRs from, the United States.

Dissostichus catch document (DCD) is a document generated through CCAMLR's electronic catch documentation scheme (CDS), containing information relating to the harvest, landing, and transshipment of *Dissostichus* species.

Dissostichus export document (DED) is a document generated through the CCAMLR's electronic CDS, containing information relating to the export of *Dissostichus* spp.

Dissostichus re-export document (DRED) is a document generated through CCAMLR's electronic CDS, containing information relating to the re-export of *Dissostichus* spp.

Dissostichus species or *Dissostichus* spp. means Patagonian toothfish and Antarctic toothfish, and any parts or products therefrom.

Enhanced mobile transceiver unit or *EMTU* means a transceiver or communication device, including all hardware and software, carried and operated on a vessel as part of a vessel monitoring system.

Export means any movement of fish or fish product from a territory under the control of the State or free trade zone of landing, or, where that State or free trade zone forms part of a customs union, any other Member State of that customs union.

First receiver means the person who first receives AMLRs landed from a vessel licensed under 50 CFR 300.107 at a U.S. port.

Fish means finfish, mollusks, and crustaceans.

Fishery means:

(1) One or more stocks of fish that are treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics.

(2) Any fishing for such stocks.

Harvesting vessel means any vessel of the United States (including any boat, ship, or other craft), that is used for, equipped to be used for, or of a type that is normally used for harvesting.

Import means the physical entering or bringing of a fish or fish product into any part of the geographical territory under the control of a State, except where the catch is landed or transshipped within the definitions of landing or transshipment.

Individual permit means a National Science Foundation (NSF) permit issued under 45 CFR part 670; or an NSF award letter (demonstrating that the individual has received an award from NSF to do research in the Antarctic); or a marine mammal permit issued under § 216.31 of this chapter; or an endangered species permit issued under § 222.21 of this chapter.

Inspection vessel means a vessel carrying a CCAMLR inspector and displaying the pennant approved by CCAMLR to identify such vessel.

International observer means a scientific observer operating in accordance with the CCAMLR Scheme of International Scientific Observation and the terms of a bilateral arrangement concluded between the United States and another member of CCAMLR for the placement of a U.S. national onboard a vessel flagged by another member of CCAMLR or for the placement of the national of another member of CCAMLR onboard a vessel of the United States.

Land or *Landing* means to begin offloading any fish, to arrive in port with the intention of offloading any fish, or to cause any fish to be offloaded. However, for purposes of catch documentation as provided for in § 300.106, land or landing means the initial unloading or transfer of *Dissostichus* spp. in any form from a vessel to dockside even if such fish are subsequently transferred to a container or to another vessel in a port or free trade zone.

National observer means a U.S. national placed and operating onboard a vessel of the United States as a scientific observer in accordance with § 300.111.

National Seafood Inspection Laboratory (NSIL) means the NMFS laboratory located at 3209 Frederic Street Pascagoula, MS 39567, telephone (228) 769–8964, email *PTFReporting@noaa.gov.*

Office of Law Enforcement (OLE) refers to the NOAA Office of Law Enforcement.

Port-to-port means from the time the vessel leaves port to the time that the vessel returns to port and at all points in between.

Real-time means as soon as possible, but at least every hour with no more than a 1-hour delay.

Recreational fishing means fishing with hook and line for personal use and not for sale.

Re-export means any movement of a fish or fish product from a territory under the control of a State, free trade zone, or Member State of a customs union of import unless that State, free trade zone, or any Member State of that customs union is the first place of landing, in which case the movement is an export within the definition of export.

Seal excluder device means a barrier within the body of a trawl comprised of a metal frame, nylon mesh, or any material that results in an obstruction to seals between the mouth opening and the cod end of the trawl. The body of the trawl net forward of the barrier must include an escape opening through which seals entering the trawl can escape.

Specially validated dissostichus catch document (SVDCD) means a Dissostichus catch document that has been specially issued by a State to accompany seized or confiscated *Dissostichus* spp. offered for sale or otherwise disposed of by the State.

Transship or transshipment means the transfer of fish or fish products, other AMLRs, or any other goods or materials directly from one vessel to another. However, for purposes of catch documentation as provided for in § 300.106, transship or transshipment means the transfer of *Dissostichus* spp. that has not been previously landed, from one vessel directly to another, either at sea or in port.

Vessel Monitoring System (VMS) means a system that uses satellite-linked EMTUs installed on vessels to allow a flag State or other entity to receive automatic transmission of positional and other information related to vessel activity.

§ 300.102 Relationship to other treaties, conventions, laws, and regulations.

(a) Other conventions and treaties to which the United States is a party and other Federal statutes and implementing regulations may impose additional restrictions on the harvesting and importation into the United States of AMLRs.

(b) The ACA implements the Antarctic Treaty Agreed Measures for the Conservation of Antarctic Fauna and Flora (12 U.S.T. 794). The ACA and its implementing regulations (45 CFR part 670) apply to certain defined activities of U.S. citizens south of 60° S. lat.

(c) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 701 *et seq.*), and their implementing regulations also apply to the harvesting and importation of AMLRs.

(d) Rule making exceptions. When implementing conservation measures adopted and notified by CCAMLR, NMFS may apply the following exceptions to Administrative Procedures Act (APA) rulemaking requirements at 5 U.S.C. 553(b)–(d):

(1) The foreign affairs function exception of the APA, 5 U.S.C. 553(a)(1); or

(2) The exception under subsection 307(b) of AMLRCA, 16 U.S.C. 2436(b), that provides that, notwithstanding 5 U.S.C. 553(b)–(d), NMFS may publish in the **Federal Register** a final regulation to implement any CCAMLR-adopted conservation measure—

(i) That has been in effect for 12 months or less, beginning on the date that the Commission notifies the United States of the conservation measure under Article IX of the Convention; and

(ii) With respect to which the Secretary of State does not notify the Commission in accordance with section 305(a)(1) of AMLRCA within the time period allotted for objections under Article IX of the Convention.

(e) Annual or biennial measures. NMFS may implement annual or biennial measures adopted by CCAMLR as conditions to vessel permits issued under § 300.107, instead of through rulemaking.

§ 300.103 Scientific research.

(a) This section applies to any person, using a vessel for research purposes, who intends to catch more than 1 tonne of finfish or krill or use gear other than longline, trawl, or pot to catch *Dissostichus* spp.

(b) Any person planning to use a vessel for research purposes, when the estimated research catch is expected to be less than 50 tonnes of finfish in a season, and no more than the amounts specified in Table 1, must notify the Assistant Administrator at least 2 months in advance of the planned research using the CCAMLR Format for Notification of Research Vessel Activity, Format 1. A copy of the format is available from NMFS Headquarters. The format requires:

(1) Name and registration number of vessel;

(2) Division and subarea in which research is to be carried out;

(3) Estimated dates of entering and leaving the Convention Area;

(4) Purposes of research; and

(5) Fishing equipment to be used (bottom trawl, midwater trawl, longline, crab pots, other).

TABLE 1—TAXA-SPECIFIC THRESHOLDS FOR NOTIFICATION OF RESEARCH VESSEL ACTIVITY

Taxon	Gear type	Expected catch
Thresholds for finfish taxa:		
Dissostichus spp.	Longline	5 tonnes.
	Trawl	5 tonnes.
	Pot	5 tonnes.
	Other	0 tonnes.
Champsocephalus gunnari	All	10 tonnes.
Thresholds for non-finfish taxa:		
Krill Squid Crabs	All	0.1 percent of the catch limit for a given area.

(c) Any person planning to use any vessel for research purposes, when the estimated research catch is expected to be more than 50 tonnes or greater than the amounts specified in Table 1 must report the details of the research plan to NMFS using CCAMLR Format 2 for Notification of Research Vessel Activity. The format must be submitted to Assistant Administrator at least 7 months in advance of the planned start date for the research. A copy of the format is available from NMFS Headquarters. The format requires:

(1) Description of the main objective of the research;

(2) Description of the fishery operations;

(3) Description of the survey design, data collection, and analysis;

(4) Proposed catch limit;

(5) Description of the research capability; and

(6) Description of the reporting for evaluation and review.

(d) Where the expected catch is more than 50 tonnes of fish or greater than the amounts specified in Table 1, the planned fishing for research purposes shall not proceed until the Assistant Administrator authorizes the person in writing that he or she may proceed. Such authorization may be provided after completion of review of the scientific research plan by the CCAMLR Scientific Committee and Commission.

(e) A summary of the results of any research subject to these provisions must be provided to the Assistant Administrator within 150 days of the completion of the research and a full report must be provided within 11 months.

(f) Catch, effort, and biological data resulting from the research must be reported using the reporting format for research vessels in accordance with relevant conservation measures, with a copy to NMFS Headquarters.

§ 300.104 International Fisheries Trade Permits and AMLR first receiver permits.

(a) *General.* (1) A person may import, export, or re-export AMLR into the United States only under a NMFS-issued International Fisheries Trade Permit (IFTP). For AMLRs to be released for entry into the United States, the product must be accompanied by a vessel permit, individual permit, AMLR first receiver permit, or IFTP.

(2) All shipments of *Dissostichus* spp. must also be accompanied by accurate, complete and valid CDS documentation (including all required validations and DEDs/DREDs) as described in § 300.106, and, in the case of shipments of frozen *Dissostichus* species, a preapproval certificate issued under § 300.105, as well as verifiable information that the harvesting vessel was reporting to C–VMS from port-to-port, regardless of where the fish were harvested. For purposes of entry of *Dissostichus* spp. into the United States, NMFS will only accept electronic CDS documents described in § 300.106.

(3) Imports of fresh or frozen *Dissostichus* spp. accompanied by an SVDCD are prohibited

(b) *International Fisheries Trade Permit.* A person intending to import, export, or re-export AMLR must possess a valid IFTP issued under § 300.322 and file required data sets electronically with Customs and Border Protection (CBP) at the time, or in advance, of importation, exportation or re-exportation. "Required data set" has the same meaning as § 300.321 (see definition of "Documentation and data sets required"). See § 300.322 for IFTP application procedures and permit regulations. The IFTP holder may only conduct those specific activities stipulated by the IFTP.

(c) *AMLR First Receiver Permits.* (1) *General.* First receivers of AMLR catch landed from a vessel permitted under § 300.107 at a U.S. port of landing must possess an AMLR first receiver permit and may only conduct those activities described in the permit. A person issued, or required to have been issued a first receiver permit under this subpart may only receive fish from a U.S. vessel that has a valid vessel permit issued under § 300.107 as well as a valid High Seas Fishing Permit issued under 50 CFR subpart Q.

(2) *Application.* Applications for the AMLR first receiver permit are available from NMFS Headquarters.

(3) *Issuance.* NMFS may issue an AMLR first receiver permit if the permit application is complete and NMFS determines that the activity proposed by the first receiver meets the requirements of the Act. First receivers of AMLR required to have a first receiver permit may only receive AMLR that were harvested, in a manner consistent with CCAMLR conservation measures and this subpart.

(4) *Duration.* Unless revoked or suspended, an AMLR first receiver permit is valid from its date of issuance to its date of expiration.

(5) *Prohibition on transfer or assignment.* AMLR first receiver permits are valid only for the person to whom NMFS issued the permit and may not be transferred or assigned.

(6) *Changes in information submitted by permit applicants or permit holders:*

(i) *Changes in pending applications.* Applicants for an AMLR first receiver permit must report any change in the information contained in the application to the Assistant Administrator in writing as soon as possible.

(ii) *Changes occurring after permit issuance.* The person to whom NMFS issued an AMLR first receiver permit must report any change in previously submitted information to the Assistant Administrator in writing within 15 days of the change. Based on such reported information, the Assistant Administrator may revise the permit effective upon notification to the permit holder.

(7) *Fees.* NMFS may charge a fee to recover the administrative expenses of permit issuance. NMFS will determine the fee in accordance with the procedures in the NOAA finance handbook, available from NMFS, for calculating administrative costs of special products and services.

(8) *Reporting and recordkeeping requirements.* First receivers of AMLRs required to have a first receiver permit under this subpart must:

(i) Accurately maintain all reports and records required by their first receiver permit and this subpart at their place of business;

(ii) Maintain the original permit at their place of business;

(iii) Make their permit, and all required reports and records, available for inspection upon the request of an authorized officer; and

(iv) Within the time specified in the permit, submit a copy of such reports and records to NMFS at an address designated by NMFS.

(d) *Revision, suspension, or revocation.* NMFS may revise, suspend, or revoke an IFTP, or first receiver permit, issued under this section based upon a violation of the permit, the Act, or this subpart.

(e) A person may not import a marine mammal into the United States unless authorized and accompanied by an import permit issued under the Marine Mammal Protection Act and/or the Endangered Species Act.

§ 300.105 Preapproval for importation of frozen *Dissostichus* species.

(a) A NMFS-issued preapproval certificate is required to import each shipment of frozen *Dissostichus* species.

(b) *Application.* Application forms for a preapproval certificate are available from NMFS Headquarters and the National Seafood Inspection Laboratory. With the exception of the U.S. Customs 7501 entry number, a complete and accurate application must be received by NMFS for each preapproval certificate at least 10 working days before the anticipated date of the importation. Dealers must supply the U.S. Customs 7501 entry number at least three working days prior to the expected arrival of a shipment of frozen *Dissostichus* species at a U.S. port.

(c) *Fees.* A person must include the processing fee with each preapproval certificate application. NMFS will determine the fee under the NOAA finance handbook procedures for calculating administrative costs of special products and services and user fees collected for administrative expenses associated with processing applications for preapproval certificates.

(d) *Issuance.* NMFS may issue a preapproval certificate for importation of a shipment of frozen *Dissostichus* species if the preapproval application form is complete and NMFS determines that the activity proposed by the applicant meets the requirements of the Act and that the resources were not harvested in violation of any CCAMLR conservation measure or in violation of any regulation in this subpart. No preapproval will be issued for *Dissostichus* species without verifiable documentation that the harvesting vessel reported to C–VMS continuously and in real-time from port-to-port, regardless of where such *Dissostichus* species were harvested.

(e) *Duration.* A preapproval certificate is valid until the *Dissostichus* product specified in the preapproval application is imported.

(f) *Transfer.* A person may not transfer or assign a preapproval certificate.

(g) *Changes in information*—(1) For pending preapproval certificates, applicants must report in writing to NMFS any changes in the information submitted in their preapproval certificate applications. NMFS may extend the processing period for the application as necessary to review and consider any changes.

(2) *Issued preapprovals.* For issued preapproval certificates, the certificate holder must report in writing to NMFS any changes to information included in the preapproval certificate application. Any changes related to fish being imported, such as harvesting vessel or country of origin, type and quantity of the fish to be imported or Convention statistical subarea from which the resource was harvested, will void the preapproval certificate and the shipment may not be imported unless authorized by NMFS through issuance of a revised or new preapproval certificate.

(3) The provision of false information in a preapproval application, or the failure to report a change in the information contained in a preapproval application, voids the application or preapproval as applicable.

(h) NMFS will not issue a preapproval certificate for any shipment of *Dissostichus* species:

(1) Identified as originating from a high seas area designated by the Food and Agriculture Organization of the United Nations as Statistical Area 51 or Statistical Area 57 in the eastern and western Indian Ocean outside and north of the Convention Area;

(2) Determined to have been harvested or transshipped in contravention of any CCAMLR Conservation Measure in force at the time of harvest or transshipment;

(3) Determined to have been harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing; or

(4) Accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation or by a SVDCD.

§ 300.106 Catch Documentation Scheme (CDS): documentation and other requirements.

(a) *General.* (1) CCAMLR CDS document(s) must accompany all shipments of *Dissostichus* species as required in this section.

(2) No shipment of *Dissostichus* species shall be released for entry into the United States unless accompanied by an accurate, complete, valid and validated CCAMLR CDS document.

(3) *Dissostichus* species shall not be released for entry into the United States unless all of the applicable requirements of the CCAMLR Conservation Measures and U.S. regulations have been met.

(b) *Harvesting vessels.* (1) A U.S. vessel harvesting or attempting to harvest *Dissostichus* species, whether within or outside of the Convention Area, must possess a valid vessel permit issued under § 300.107, a valid High Seas Fishing Permit issued under 50 CFR subpart Q, as well as DCD issued by NMFS, which is non-transferable. The master of the harvesting vessel must ensure that catch and other information specified on the DCD are accurately recorded.

(2) Prior to offloading *Dissostichus* species, the master of the harvesting vessel must:

(i) Electronically convey, by the most rapid means possible, catch and other information to NMFS and record on the DCD a confirmation number received from NMFS;

(ii) Obtain on the DCD (or copies thereof) the signature(s) of the following persons: if catch is offloaded for transshipment, the master of the vessel(s) to which the catch is transferred; or if catch is offloaded for landing, the signature of both the responsible official(s) designated by NMFS in the vessel permit and the recipient of the catch at the port(s) of landing; and

(iii) Sign the DCD (or copies thereof), electronically convey by the most rapid means possible each copy to NMFS and provide a copy to each recipient of the catch.

(3) The master of the harvesting vessel must submit the original DCD (and all copies thereof with original signatures) to NMFS no later than 30 days after the end of the fishing season for which the

vessel permit was issued and retain copies of the DCD for a period of 2 years.

(c) *Transshipment vessels.* (1) A U.S. vessel transshipping or attempting to transship *Dissostichus* species, whether within or outside of the Convention Area, must possess a valid vessel permit issued under § 300.107 and a valid High Seas Fishing Permit issued under subpart Q of this part. The master of a U.S. vessel receiving *Dissostichus* species by transshipment must, upon receipt of *Dissostichus* species, sign each DCD provided by the master of the vessel that offloads *Dissostichus* species.

(2) Prior to landing *Dissostichus* species, the master of the transshipping vessel must:

(i) Obtain on each DCD (or copies thereof) the signature(s) of both the responsible official(s) designated by NMFS in the vessel permit and the recipient of the catch at the port(s) of landing and;

(ii) Sign each DCD (or copies thereof), and electronically convey by the most rapid means possible each copy to NMFS and to the flag state(s) of the offloading vessel(s) and provide a copy to each recipient of *Dissostichus* species.

(3) The master of the transshipping vessel must submit all DCDs with original signatures to NMFS no later than 30 days after offloading and retain copies for a period of 2 years.

(d) *First receivers.* Any person who receives *Dissostichus* species landed by a vessel at a U.S. port must hold an AMLR first receiver permit issued under § 300.104 and must sign the DCD(s) provided by the master of the vessel and retain copies at their place of business for a period of 2 years. A person issued, or required to have been issued a first receiver permit under this subpart may only receive fish from a U.S. vessel that has a valid vessel permit issued under § 300.107 as well as a valid High Seas Fishing Permit issued under 50 CFR subpart Q.

(e) *Import.* (1) A person who imports fresh *Dissostichus* species must hold an IFTP issued under § 300.322. To import frozen *Dissostichus* species into the United States, a person must:

(i) Obtain a preapproval certificate issued under § 300.105 for each shipment. Among the information required on the application, applicants must provide the document number and export reference number on the DED or DRED corresponding to the intended import shipment and, if requested by NMFS, additional information for NMFS to verify that the harvesting vessel reported to the C–VMS continuously and in real-time, from port-to-port, regardless of where the fish were harvested;

(ii) Ensure that the quantity of toothfish listed on the DED (or the *Dissostichus* re-export document if product is a re-export) matches the quantity listed on the preapproval application within a variance of 10 percent;

(iii) Provide copies of the DED or DRED as needed to persons who re-export *Dissostichus* species.

(2) Imports of fresh *Dissostichus* species do not require a preapproval certificate. If the amount or value of the fresh *Dissostichus* species to be imported is below thresholds that trigger the requirement to file entry documentation with U.S. Customs and Border Protection via the Automated Commercial Environment (see definition in § 300.321), the importer must complete a report of each shipment and submit the report to NMFS within 24 hours following importation. Verification of the harvesting vessel's reporting to C–VMS from port-to-port is not required for imports of fresh *Dissostichus* species.

(f) *Re-export.* (1) To re-export *Dissostichus* species, a person must hold an IFTP issued under § 300.322 and:

(i) Submit to NMFS a complete and accurate application for a NMFS *Dissostichus* re-export document, and

(ii) Obtain validation by a responsible official(s) designated by NMFS and receive an electronically-generated DRED.

(2) When applying for a re-export approval, a person must reference or include the approval number issued by NOAA, for the original validated *Dissostichus* import document.

(g) *Export.* (1) To export U.S.-harvested *Dissostichus* species, the person must possess an IFTP issued under § 300.322 and:

(i) Submit to NMFS a complete and accurate NMFS application for a DED.

(ii) Obtain validation by a responsible official(s) designated by NMFS and receive an electronically-generated DED.

(2) Any person who exports *Dissostichus* species must include the original validated DED with the export shipment.

(h) *Recordkeeping.* Any person who imports, exports or re-exports *Dissostichus* spp. must:

(1) Retain a copy of all CDS documents at the person's place of business for a period of 2 years from the date on the documents and provide copies as needed to NMFS; and

(2) Make the IFTP and all CDS documents and other records and reports required by this subpart available for inspection upon request of an authorized officer.

§ 300.107 Vessel permits and requirements.

(a) *General.* In addition to the High Seas Fishing Permit requirements at 50 CFR part 300, subpart Q:

(1) Every vessel of the United States that attempts to harvest or harvests any AMLR must have a vessel permit authorizing the harvest issued under this subpart, unless the attempt or harvest occurs during recreational fishing or is covered by an individual permit. Boats launched from a vessel issued a vessel permit do not require a separate permit, but are covered by the permit issued to the launching vessel. Any enforcement action that results from the activities of a launched boat will be taken against the owner and operator of the launching vessel.

(2) Any vessel of the United States that receives or attempts to receive any harvested AMLR from another vessel at sea, regardless of whether such transshipment occurs in the Convention Area or that receives, or attempts to receive any other goods or materials from another vessel in the Convention Area, must have a vessel permit authorizing transshipment issued under this subpart. Transshipment vessels must comply with the permitting provisions of this section. This requirement does not apply to scientific research vessels or to transshipments covered under an individual permit.

(3) Permits issued under this section do not authorize vessels or persons subject to the jurisdiction of the United States to harass, capture, harm, kill, harvest, or import marine mammals. No marine mammals may be taken in the course of commercial fishing operations unless the taking is authorized under the Marine Mammal Protection Act and/or the Endangered Species Act pursuant to an exemption or permit granted by the appropriate agency.

(b) *Responsibility of owners and operators.* (1) The owners and operators of vessels permitted, or required to be permitted, under this subpart are jointly and severally responsible for compliance with the Act, this subpart, and any permit issued under the Act and this subpart.

(2) The owners and operators of each such vessel are responsible for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or forbidden by the owners or operators, and regardless of knowledge concerning their occurrence.

(3) The owner of a vessel issued a vessel permit under this subpart must

report any sale, change in ownership, or other disposition of the vessel to the Assistant Administrator as soon as possible but no later than 15 days after the change.

(4) The owner and operator of a harvesting vessel issued a permit to fish for krill in the Convention Area using trawl gear must install a seal excluder device and may not possess onboard or deploy trawl gear without a seal excluder device installed.

(c) *Application.* Application forms for vessel permits are available from NMFS Headquarters.

(1) A separate, fully completed and accurate application is required for each vessel for which a permit is requested.

(2) NMFS must receive applications for vessel permits no later than April 1 for the fishing season that will commence on or after December 1 of that year.

(3) Applications for a permit to harvest krill must, to the extent possible, identify the products to be derived from the anticipated krill catch.

(4) NMFS will only accept permit applications for vessels that have been issued an International Maritime Organization (IMO) number.

(5) NMFS may charge a fee to recover the administrative expense of permit issuance. NMFS will determine the fee in accordance with procedures in the NOAA finance handbook, available from NMFS, for calculating administrative costs of special products and services and user fees.

(d) *Issuance.* The Assistant Administrator may issue a vessel permit if the Assistant Administrator determines that the harvesting or transshipment activities described in the application will meet the requirements of the Act and will not:

(1) Decrease the size of any harvested population to levels below those that ensure its stable recruitment. For this purpose, the Convention provides that its size should not be allowed to fall below a level close to that which ensures the greatest net annual increment.

(2) Upset the ecological relationships between harvested, dependent, and related populations of AMLRs and the restoration of depleted populations to levels that will ensure stable recruitment.

(3) Cause changes or increase the risk of changes in the marine ecosystem that are not potentially reversible over 2 or 3 decades, taking into account the state of available knowledge of the direct and indirect impact of harvesting, the effects of the introduction of alien species, the effects of associated activities on the marine ecosystem and the effects of environmental changes, with the aim of making possible the sustained conservation of AMLRs.

(4) Violate the Convention or any conservation measures in force with respect to the United States under the Convention. The Convention and the schedule of conservation measures in force can be found on the CCAMLR Web site: *www.ccamlr.org.*

(e) *Duration.* A vessel permit is valid from its date of issuance to its date of expiration unless it is revoked or suspended.

(f) *Transfer.* Permits are not transferable or assignable. A permit is valid only for the vessel to which it is issued.

(g) *Display.* Each vessel must have on board, at all times, a valid vessel permit and the vessel operator must produce it for inspection upon the request of an authorized officer or CCAMLR inspector.

(h) *Changes in information submitted by permit applicants or holders*—(1) *Changes in pending applications.* Applicants for a vessel permit must report to the Assistant Administrator in writing any change in the information contained in the application. The processing period for the application will be extended as necessary to review the change.

(2) *Changes occurring after permit issuance*—

(i) *Requested changes in the location, manner, or amount of harvesting.* Any changes in the location, manner or amount of harvesting must be proposed in writing to the Assistant Administrator and may not be undertaken unless authorized by the Assistant Administrator through a permit revision or issuance of a new permit. If the Assistant Administrator determines that the requested change in the location, manner, or amount of harvesting could significantly affect the status of any Antarctic marine living resource, the Assistant Administrator will treat the requested change as an application for a new permit and so notify the holder.

(ii) *Changes other than in the location, manner or amount of harvesting.* For changes other than those addressed in paragraph (h)(2)(i) of this section, the owner or operator of a vessel that has been issued a vessel permit must report to the Assistant Administrator in writing any change in previously submitted information as soon as possible but no later than within 15 days after the change. Based on such reported information, the Assistant Administrator may revise the permit and any revised permit would be effective upon notification to the permit holder.

(iii) *Conditions and restrictions.* The vessel permit will contain conditions and restrictions that the Assistant Administrator deems necessary for implementation of conservation measures that apply to the harvesting or transshipment activities. The Assistant Administrator may revise the vessel permit to include additional conditions and restrictions on the harvesting vessel as necessary to implement conservation measures in force with respect to the United States or to achieve the purposes of the Convention or the Act. Any additional conditions or restrictions will be effective upon notification to the permit holder.

(j) *Revision, suspension, or revocation for violations.* A vessel permit may be revised, suspended, or revoked if the harvesting vessel is involved in the commission of any violation of its permit, the Act, or this subpart. The Assistant Administrator may deny a vessel permit if the applicant or harvesting vessel was previously involved in the commission of any violation of its permit, the Act, or this subpart. Failure to report a change in the information contained in an application within 15 days of the change is a violation of this subpart and voids the application or permit, as applicable. If a change in vessel ownership is not reported, the violation is chargeable to the previous owner.

(k) *Transshipment notification.* The vessel operator must notify the CCAMLR Secretariat of transshipments of AMLRs, bait, or fuel, and submit a confirmation of the notification to NMFS Headquarters, no later than 72 hours before the transshipment will take place. The vessel operator must notify the CCAMLR Secretariat of transfers of all other goods, and submit a confirmation of the notification to NMFS Headquarters, no later than 2 hours before the transshipment will take place. Notifications of intended transshipments shall include the following information, for all vessels involved:

(1) Names, registration numbers, and IMO numbers,

(2) International radio call signs,

(3) Flag State,

(4) Type of vessels, length, gross registered tonnage and carrying capacity,

(5) Proposed time and position, in latitude and longitude, of transshipment.

(6) Details of the type and amount of catches and/or other goods, such as food stores and fuel, involved in the transshipment.

(l) *Reporting and recordkeeping requirements.* The operator of any vessel required to have a vessel permit under this subpart must:

(1) Accurately maintain on board the vessel all CCAMLR reports and records required by its permit.

(2) Make such reports and records available for inspection upon the request of an authorized officer or CCAMLR inspector.

(3) Within the time specified in the vessel permit, submit a copy of such reports and records to NMFS.

(4) Install a NMFS-approved EMTU on board U.S. flagged vessels harvesting AMLR for use in real-time C–VMS port-to-port reporting to a NMFS-designated land-based fisheries monitoring center or centers. The requirements for the installation and operation of the VMS are set forth in § 300.112.

(5) Provide advance notice of the vessel's entry into port using the CCAMLR Port Inspection Report, including the written declaration that the vessel has not engaged in or supported illegal, unreported and unregulated (IUU) fishing in the Convention Area and has complied with relevant CCAMLR requirements. The CCAMLR Port Inspection Report, and instructions for its submission, is available from NMFS Headquarters.

§ 300.108 Vessel and gear identification.

(a) *Vessel identification.* (1) A vessel issued a permit under this subpart must be marked with the vessel's name and its International Radio Call Sign (IRCS) amidships on both the port and starboard sides of the superstructure or hull, so that it is visible at all times from an enforcement or inspection vessel. Fixtures inclined at an angle to the vessel's side or superstructure would be considered as suitable provided that the angle of inclination would not prevent sighting of the sign from another vessel or from the air. The vessel's IRCS shall be marked on the deck. Should an awning or other temporary cover be placed so as to obscure the mark on the deck, the awning or cover shall also be marked with the IRCS. The marks should be placed athwartship with the top of the numbers or letters towards the bow.

(2) Boats, skiffs and craft carried by the vessel for fishing operations shall bear the same mark as the vessel, except that a numerical suffix specific for the boat, skiff, or craft must follow the IRCS.

(3) The vessel identification must be in a color in contrast to the background and must be permanently affixed to the vessel in block Roman alphabet letters and Arabic numerals using good quality marine paints. The letters and numbers shall be: at least 1 meter in height (h) for the IRCS placed on the hull, superstructure and/or inclined surfaces and at least 0.3 meter for marks placed on deck. The length of the hyphen shall be half the height of the letters and numbers. The width of the stroke for all letters, numbers and the hyphen shall be h/6. The space between letters and/or numbers shall not exceed h/4 nor be less than h/6. The space between adjacent letters having sloping sides (*e.g.,* A and V) shall not exceed h/8 nor be less than h/10. If a contrasting color is used for the background of the marks, it shall extend to provide a border around the mark of at least h/6.

(4) The marks and the background shall be maintained in good condition at all times.

(b) *Navigational lights and shapes.* Each vessel issued a vessel permit must display the lights and shapes prescribed by the International Regulations for Preventing Collisions at Sea, 1972 (TIAS 8587, and 1981 amendment TIAS 10672), for the activity in which the harvesting vessel is engaged (as described at 33 CFR part 81).

(c) *Gear identification.* (1) The operator of each fishing vessel must ensure that all deployed fishing gear is clearly marked at all times at the surface with a buoy displaying the vessel identification of the harvesting vessel (see paragraph (a) of this section) to which the gear belongs, a light visible for 2 miles at night in good visibility, and a radio buoy.

(2) The operator of each harvesting vessel must ensure that deployed longlines and strings of traps or pots, and gillnets are clearly marked at all times at the surface at each terminal end with a buoy displaying the vessel identification of the harvesting vessel to which the gear belongs (see paragraph (a) of this section), a light visible for 2 miles at night in good visibility, and a radio buoy.

(3) Unmarked or incorrectly identified fishing gear may be considered abandoned and may be disposed of in accordance with applicable CCAMLR Conservation Measures in force with respect to the United States by any authorized officer or CCAMLR inspector.

(d) *Maintenance.* The operator of each vessel issued a vessel permit must:

(1) Keep the vessel and gear identification clearly legible and in good condition at all times;

(2) Ensure that nothing on the vessel obstructs the view of the markings from an enforcement or inspection vessel or aircraft; and

(3) Ensure that the proper navigational lights and shapes are displayed for the vessel's activity and are properly functioning.

§ 300.109 Initiating a new fishery.

(a) A new fishery, for purposes of this section, is a fishery that uses bottom trawls on the high seas of the Convention Area or a fishery for a species, using a particular method, in a statistical subarea or division for which:

(1) Information on distribution, abundance, demography, potential yield and stock identity from comprehensive research/surveys or exploratory fishing has not been submitted to CCAMLR;

(2) Catch and effort data have never been submitted to CCAMLR; or

(3) Catch and effort data from the two most recent seasons in which fishing occurred have not been submitted to CCAMLR.

(b) Persons intending to develop a new fishery shall notify the Assistant Administrator no later than April 1 for the fishing season that will commence on or after December 1 and shall not initiate the fishery pending NMFS and CCAMLR review or until a vessel permit has been used under this subpart.

(c) The notification shall be accompanied by a complete vessel permit application required under § 300.107 and information on:

(1) The nature of the proposed fishery, including target species, methods of fishing, proposed region and maximum catch levels proposed for the forthcoming season;

(2) Biological information on the target species from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity;

(3) Details of dependent and related species and the likelihood of them being affected by the proposed fishery;

(4) Information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield; and

(5) If the proposed fishery will be undertaken using bottom trawl gear, the known and anticipated impacts of this gear on vulnerable marine ecosystems, including benthos and benthic communities.

§ 300.110 Exploratory fisheries.

(a) An exploratory fishery, for purposes of this section, is a fishery that was previously defined as a new fishery under § 300.109.

(b) A fishery continues to be classified by CCAMLR as an exploratory fishery until sufficient information is available to:

(1) Evaluate the distribution, abundance, and demography of the target species, leading to an estimate of the fishery's potential yield;

(2) Review the fishery's potential impacts on dependent and related species; and

(3) Allow the CCAMLR Scientific Committee to formulate and provide advice to the Commission on appropriate harvest catch levels and fishing gear.

(c) The operator of any vessel engaging in an exploratory fishery must submit, by the date specified in the vessel permit issued under § 300.107, catch, effort, and related biological, ecological, and environmental data as required by a data collection plan for the fishery formulated by the CCAMLR Scientific Committee.

(d) In addition to the requirements in § 300.107, any person planning to enter an exploratory fishery must notify the Assistant Administrator no later than April 1 for the fishing season that will commence on or after December 1 and shall not enter the fishery pending NMFS and CCAMLR review or until a vessel permit has been used under this subpart. The Assistant Administrator will not issue a permit to enter an exploratory fishery until after the requirements of § 300.107 have been met and CCAMLR has considered the notification.

(e) The notification shall be accompanied by a complete vessel permit application required under § 300.107 and information on:

(1) The nature of the exploratory fishery, including target species, methods of fishing, proposed region and maximum catch levels proposed for the forthcoming season;

(2) Specification and full description of the types of fishing gear to be used;

(3) Biological information on the target species from comprehensive research/survey cruises, such as distribution, abundance, demographic data and information on stock identity; details of dependent and related species and the likelihood of their being affected by the proposed fishery;

(4) Information from other fisheries in the region or similar fisheries elsewhere that may assist in the evaluation of potential yield;

(5) If the proposed fishery will be undertaken using bottom trawl gear, information on the known and anticipated impacts of this gear on vulnerable marine ecosystems, including benthos and benthic communities; and

(6) Any other information the Assistant Administrator requires to fully implement the relevant conservation measures.

§ 300.111 Scientific observers.

(a) Except as otherwise specified, this section applies to both national observers and international observers, as well as to vessels of the United States carrying, or required to carry, such observers.

(b) All vessels of the United States fishing in the Convention Area must carry one or more scientific observers as required by CCAMLR conservation measures or as specified in a vessel permit issued under this subpart.

(c) All vessels of the United States conducting longline sink rate testing outside the Convention Area and pursuant to CCAMLR protocols must carry one or more scientific observers as specified in the vessel permit issued under this subpart.

(d) *Procurement of observers by vessel.* Owners of vessels required to carry scientific observers under this section must arrange for observer services in coordination with the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division. The vessel owner is required to pay for observer services through an observer service provider who has provided observer services to the Federal government within the past year. In situations where no qualified observer is available through a qualified observer provider, the Secretary may authorize a vessel owner to arrange for an observer by alternative methods. An observer may not be paid directly by the vessel owner.

(e) *Vessel responsibilities.* An operator of a vessel required to carry one or more scientific observers must:

(1) *Accommodations and food.* Provide, at no cost to the observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers of the vessel; and

(2) *Safe conditions.* Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel and have on board:

(i) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR chapter I and 46 CFR chapter I;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(3) *Health and safety regulations.* Comply with the observer health and safety regulations at part 600 of this title.

(4) *Transmission of data.* Facilitate transmission of observer data by allowing observers, on request, to use the vessel's communications equipment and personnel for the confidential entry, transmission, and receipt of work-related messages.

(5) *Vessel position.* Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position, course and speed.

(6) *Access.* Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(7) *Prior notification.* Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(8) *Records.* Allow observers to inspect and copy the vessel's DCD, product transfer forms, any other logbook or document required by regulations or CCAMLR conservation measures, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(9) *Assistance.* Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

(i) Measuring decks, codends, and holding bins;

(ii) Providing the observers with a safe work area adjacent to the sample collection site;

(iii) Collecting bycatch when requested by the observers;

(iv) Collecting and carrying baskets of fish when requested by observers; and

(v) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(10) *Transfer at sea.* (i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(f) *Insurance.* The observer service provider or vessel owner must provide insurance for national observers that provides compensation in the event of an injury or death during the entire deployment, from the point of hire location to return, equivalent to the standards of the North Pacific Groundfish Observer Program set forth in § 679.50 of this title.

(g) *Educational requirements.* National observer candidates must:

(1) Have a Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences; or

(2) Have successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course.

(h) *Health requirements.* National observers, and U.S. observers deployed as international observers, must have a signed and dated statement from a licensed physician that he or she has physically examined the observer. The statement must confirm that, based upon the physical examination, the observer does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of an observer and the dangerous, remote and rigorous nature of the work. The physician's statement must be submitted to the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division program office prior to approval of an observer. The physical exam must have occurred during the 12 months prior to the observer's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(i) *Standards of observer conduct*—(1) Observers: (i) Must not have a direct financial interest in the fishery being observed, including but not limited to:

(A) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish;

(B) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility; or

(C) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities.

(ii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(iii) Must not serve as observers on any vessel or at any shoreside or floating stationary processing facility owned or operated by a person who previously employed the observers.

(iv) Must not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor while employed by an observer provider.

(2) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(j) *Standards of observer behavior.* Observers must:

(1) Avoid any behavior that could adversely affect the confidence of the public in the integrity of the CCAMLR System of Scientific Observation or of the government, including but not limited to the following:

(2) Perform their assigned duties as described in the CCAMLR Scientific Observers Manual and must complete the CCAMLR Scientific Observer Logbooks and submit them to the CCAMLR Data Manager at the intervals specified by the Data Manager.

(3) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(4) Not disclose collected data and observations made on board the vessel or in the processing facility to any person, except the owner or operator of the observed vessel or processing facility or NMFS.

(5) Refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the CCAMLR System of Scientific Observation as a whole. This includes, but is not limited to:

(i) Refrain from engaging in the use, possession, or distribution of illegal drugs; or

(ii) Refrain from engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(k) *Sampling station.* (1) Minimum work space aboard at sea processing vessels. The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 meter (m) deep in the area in front of the table and scale.

(2) Table aboard at-sea processing vessels. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(3) Other requirement for at-sea processing vessels. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

§ 300.112 Vessel monitoring system.

(a) *Requirement for use.* Within 30 days after NMFS publishes in the **Federal Register** a list of approved EMTUs and associated communications service providers for the AMLR fishery, an owner or operator of a vessel that has been issued a vessel permit under § 300.107 must ensure that such vessel has a NMFS-type-approved, operating EMTU installed and continuously operating for the duration of any fishing trip involving the harvesting of AMLR.

(b) *Installing and activating the EMTU.* Only EMTUs that have been approved by NMFS for use in the AMLR fishery may be used. The vessel owner or operator shall obtain and have installed on the fishing vessel, by a qualified marine electrician and in accordance with any instructions provided by the VMS Helpdesk or OLE, a NMFS type-approved EMTU.

(c) *Interference with the EMTU.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the EMTU, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's EMTU is not operating properly, the owner or operator must immediately contact OLE, and follow instructions from that office.

If notified by NMFS that a vessel's EMTU is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions or returning to port until the EMTU is operable.

(e) *Access to data.* OLE is authorized to receive and relay transmissions from the EMTU. OLE will share a vessel's position data obtained from the EMTU, if requested, with other NMFS offices, the USCG, and their authorized officers and designees.

(f) *Installation and operation of the VMS.* NMFS has authority over the installation and operation of the EMTU. NMFS may authorize the connection or order the disconnection of additional equipment, including a computer, to any EMTU when deemed appropriate by NMFS.

§ 300.113 CCAMLR Ecosystem Monitoring Program sites.

(a) *General.* (1) Any person subject to the jurisdiction of the United States must apply for and be granted an entry permit authorizing specific activities prior to entering a CCAMLR Ecosystem Monitoring Program (CEMP) site designated in accordance with the CCAMLR conservation measure describing the procedure for according protection for CEMP sites.

(2) If a CEMP site is also a site specially protected under the Antarctic Treaty (or the Protocol on Environmental Protection to the Antarctic Treaty and its Annexes, such as the sites listed in 45 CFR 670.29), an applicant seeking to enter such site must apply to the Director of the NSF for a permit under applicable provisions of the ACA or any superseding legislation. The permit granted by NSF shall constitute a joint CEMP/ACA Protected Site permit and any person holding such a permit must comply with the appropriate CEMP site management plan. In all other cases, an applicant seeking a permit to enter a CEMP site must apply to the Assistant Administrator for a CEMP permit in accordance with the provisions of this section.

(b) *Responsibility of CEMP permit holders and persons designated as agents under a CEMP permit.* (1) The CEMP permit holder and person designated as agents under a CEMP permit are jointly and severally responsible for compliance with the Act, this subpart, and any permit issued under this subpart.

(2) The CEMP permit holder and agents designated under a CEMP permit are responsible for the acts of their employees and agents constituting violations, regardless of whether the specific acts were authorized or forbidden by the CEMP permit holder or agents, and regardless of knowledge concerning their occurrence.

(c) *Prohibitions regarding the Antarctic Treaty System and other applicable treaties and statutes.* Holders of permits to enter CEMP Protected Sites are not authorized to undertake any activities within a CEMP Protected Site that are not in compliance with the conditions of the CEMP permit and the provisions of:

(1) The Antarctic Treaty, including the Agreed Measures for the Conservation of Antarctic Fauna and Flora (including the Protocol on the Environmental Protection to the Antarctic Treaty and its Annexes), as implemented by the ACA and any superseding legislation. (Persons interested in conducting activities subject to the Antarctic Treaty or the Protocol should contact the Office of Polar Programs, NSF).

(2) The Convention for the Conservation of Antarctic Seals.

(3) The Convention and its Conservation Measures in force, implemented under the Act.

(d) *Prohibitions on takings.* Permits issued under this section do not authorize any takings as defined in the applicable statutes and implementing regulations governing the activities of persons in Antarctica.

(e) *Issuance criteria.* Permits designated in this section may be issued by the Assistant Administrator upon a determination that:

(1) The specific activities meet the requirements of the Act;

(2) There is sufficient reason, established in the CEMP permit application, that the scientific purpose for the intended entry cannot be served elsewhere; and

(3) The actions permitted will not violate any provisions or prohibitions of the site's management plan submitted in compliance with the CCAMLR Conservation Measure describing the procedure for according protection to CEMP sites.

(f) *Application process.* An applicant seeking a CEMP permit from the Assistant Administrator to enter a CEMP site shall include the following in the application.

(1) A detailed justification that the scientific objectives of the applicant cannot be accomplished elsewhere and a description of how said objectives will be accomplished within the terms of the site's management plan.

(2) A statement signed by the applicant that the applicant has read and fully understands the provisions and prohibitions of the site's management plan. Prospective applicants may obtain copies of the relevant management plans and the CCAMLR Conservation Measure describing the procedure for according protection to CEMP sites by requesting them from NMFS Headquarters.

(g) *Conditions.* CEMP permits issued under this section will contain special and general conditions including a condition that the permit holder shall submit a report describing the activities conducted under the permit within 30 days of the expiration of the CEMP permit.

(h) *Transfer.* CEMP permits are not transferable or assignable. A CEMP permit is valid only for the person to whom it is issued.

(i) *Additional conditions and restrictions.* The Assistant Administrator may revise the CEMP permit effective upon notification of the permit holder, to impose additional conditions and restrictions as necessary to achieve the purposes of the Convention, the Act and the CEMP Management Plan. The CEMP permit holder must, as soon as possible, notify any and all agents operating under the permit of any and all revisions or modifications to the permit.

(j) *Revocation or suspension.* CEMP permits may be revoked or suspended based upon information received by the Assistant Administrator and such revocation or suspension shall be effective upon notification to the permit holder.

(1) A CEMP permit may be revoked or suspended based on a violation of the permit, the Act, or this subpart.

(2) Failure to report a change in the information submitted in a CEMP permit application within 10 days of the change is a violation of this subpart and voids the application or permit, as applicable. Title 15 CFR part 904 governs permit sanctions under this subpart.

(k) *Exceptions.* Entry into a CEMP site is lawful if committed under emergency conditions to prevent the loss of human life, avoid compromising human safety, prevent the loss of vessels or aircraft, or to prevent environmental damage.

(l) *Protected sites.* Sites protected by the Antarctic Treaty and regulated under the ACA are listed at 45 CFR part 670 subpart F.

§ 300.114 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person to:

(a) Harvest any AMLR without a permit for such activity as required by § 300.107.

(b) Import into, or export or re-export from, the United States any AMLR: Taken by a vessel of the United States without a permit issued under this subpart or by the a foreign-flagged vessel without valid authorization from the applicable flag state to harvest those resources; without accurate, complete, valid and properly validated CDS documentation as required by § 300.106; without an IFTP as required by § 300.104; or in violation of the terms and conditions for such import, export or re-export as specified on the IFTP.

(c) Engage in or benefit from harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States under Article IX of the Convention.

(d) Ship, transport, offer for sale, sell, purchase, import, export, re-export or have custody, control or possession of, any AMLR that was harvested in violation of a conservation measure in force with respect to the United States under Article IX of the Convention or in violation of any regulation promulgated under the Act, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the AMLR.

(e) Refuse to allow any CCAMLR inspector or authorized officer to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for the purpose of conducting any search, investigation, or inspection authorized by the Act, this subpart, or any permit issued under the Act.

(f) Refuse to provide appropriate assistance, including access as necessary to communications equipment, to any CCAMLR inspector or authorized officer.

(g) Refuse to sign a written notification of alleged violations of Commission measures in effect prepared by a CCAMLR inspector.

(h) Assault, resist, oppose, impede, intimidate, or interfere with a CCAMLR inspector or authorized officer in the conduct of any boarding, search, investigation, or inspection authorized by the Act, this subpart, or any permit issued under the Act.

(i) Use any vessel to engage in harvesting, or receive, import, export or re-export, AMLRs after the revocation, or during the period of suspension, of an applicable permit issued under the Act.

(j) Fail to identify, falsely identify, fail to properly maintain, or obscure the identification of a harvesting vessel or its gear as required by this subpart.

(k) Fish in an area where fishing is prohibited by the Commission, other than for scientific research purposes in accordance with § 300.103.

(l) Violate or attempt to violate any provision of this subpart, the Act, any other regulation promulgated under the Act or the conditions of any permit issued under the Act.

(m) Provide incomplete or inaccurate information about the harvest, transshipment, landing, import, export, or re-export of applicable species on any document required under this subpart.

(n) Receive AMLR from a vessel, without holding an AMLR first receiver permit as required under § 300.104, or receive AMLR from a fishing vessel that does not hold a valid vessel permit issued under § 300.107.

(o) Import, export or re-export *Dissostichus* spp. harvested or transshipped by a vessel identified by CCAMLR as having engaged in illegal, unreported and unregulated (IUU) fishing, originating from a high seas area designated by the Food and Agriculture Organization of the United Nations as Statistical Area 51 or Statistical Area 57 or accompanied by inaccurate, incomplete, invalid, or improperly validated CDS documentation or import or re-export *Dissostichus* spp. accompanied by a SVDCD.

(p) Import shipments of frozen *Dissostichus* spp. without a preapproval issued under § 300.105.

(q) *Observers.* (1) Assault, resist, oppose, impede, intimidate, harass, bribe, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of catch before sampling.

(3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(4) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate determinations, making observations, or otherwise performing the observer's duties.

(5) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment.

(6) Fish for or process fish without observer coverage required under § 300.111.

(7) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(8) Refuse to provide appropriate assistance, including access as necessary to communications equipment, to an observer.

(r) *Vessel monitoring systems.* (1) Use any vessel of the United States issued, or required to be issued, an AMLR vessel permit to conduct fishing operations unless that vessel carries a NMFS-type-approved EMTU and complies with the requirements described in this subpart.

(2) Fail to install, activate, repair or replace an EMTU prior to leaving port as specified in this subpart.

(3) Fail to operate and maintain an EMTU on board the vessel at all times as specified in this subpart.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the EMTU required to be installed on a vessel or the EMTU position reports transmitted by a vessel as specified in this subpart.

(5) Fail to contact OLE or follow OLE instructions when automatic position reporting has been interrupted as specified in this subpart.

(6) Register an EMTU to more than one vessel at the same time.

(7) Connect, or leave connected, additional equipment to an EMTU without the prior approval of the OLE.

(8) Make a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of an EMTU or communication service provider.

(9) Fail to report to NMFS and to CCAMLR's C–VMS from port-to-port on any trip during which AMLR are, or are expected to be, harvested regardless of whether the vessel operates, or is expected to operate, inside the Convention Area.

(s) Trawl for krill in Convention Area fisheries without a seal excluder device or possess trawl gear without a seal excluder device installed onboard a vessel permitted, or required to be permitted, under this subpart to harvest krill with trawl gear.

(t) Harvest any AMLR in the Convention Area without a vessel permit required by this subpart.

(u) Ship, transport, offer for sale, sell, purchase, import, export, re-export or have custody, control, or possession of, any frozen *Dissostichus* species without verifiable documentation that the harvesting vessel reported to CCAMLR's C–VMS continuously and in real-time, from port-to-port, regardless of where such *Dissostichus* species were harvested.

§ 300.115 Facilitation of enforcement and inspection.

In addition to the facilitation of enforcement provisions of § 300.5, the following requirements apply to this subpart.

(a) *Access and records.* (1) The owners and operator of each harvesting vessel must provide authorized officers and CCAMLR inspectors access to all spaces where work is conducted or business papers and records are prepared or stored, including but not limited to personal quarters and areas within personal quarters. If inspection of a particular area would interfere with specific on-going scientific research, and if the operator of the harvesting vessel makes such assertion and produces an individual permit that covers that specific research, the authorized officer or CCAMLR inspector will not disturb the area, but will record the information pertaining to the denial of access.

(2) The owner and operator of each harvesting vessel must provide to authorized officers and CCAMLR inspectors all records and documents pertaining to the harvesting activities of the vessel, including but not limited to production records, fishing logs, navigation logs, transfer records, product receipts, cargo stowage plans or records, draft or displacement calculations, customs documents or records, and an accurate hold plan reflecting the current structure of the vessel's storage and factory spaces.

(3) Before leaving vessels that have been inspected, the CCAMLR inspector will give the master of the vessel a Certificate of Inspection and a written notification of any alleged violations of Commission measures in effect and will afford the master the opportunity to comment on it. The ship's master must sign the notification to acknowledge receipt and the opportunity to comment on it.

(4) Any person issued a first receiver permit under this subpart, or an IFTP under § 300.322, must as a condition of that permit, allow an authorized officer access to any facility from which they engage in the first receipt, import, export or re-export of AMLR for the purpose of inspecting the facility and any fish, equipment or records therein.

(b) *Reports by non-inspectors.* All scientists, fishermen, and other non-inspectors present in the Convention Area and subject to the jurisdiction of the United States are encouraged to report any violation of Commission conservation measures observed in the Convention Area to the Office of Ocean and Polar Affairs (CCAMLR Violations), Department of State, Room 5801, Washington, DC 20520.

(c) *Storage of AMLR.* The operator of each harvesting vessel storing AMLR in a storage space on board a vessel must ensure that non-resource items are neither stowed beneath nor covered by resource items, unless required to maintain the stability and safety of the vessel. Non-resource items include, but are not limited to, portable conveyors, exhaust fans, ladders, nets, fuel bladders, extra bin boards, or other moveable non-resource items. These non-resource items may be in a resource storage space when necessary for the safety of the vessel or crew or for the storage of the items. Lumber, bin boards, or other dunnage may be used for shoring or bracing of product to ensure the safety of crew and to prevent shifting of cargo within the space.

§ 300.116 Penalties.

Any person or harvesting vessel found to be in violation of the Act, this subpart, or any permit issued under this subpart will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, 15 CFR part 904, and other applicable laws.

[FR Doc. 2016–17129 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 140
Thursday, July 21, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Newspapers Used for Publication of Legal Notices in the Southwestern Region, Which Includes Arizona, New Mexico, and Parts of Oklahoma and Texas

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all Ranger Districts, Grasslands, Forests, and the Regional Office of the Southwestern Region to publish legal notices required under 36 CFR 218 and 219. The intended effect of this action is to inform interested members of the public which newspapers the Forest Service will use to publish notices of proposed actions, notices of decision, and notices of opportunity to file an objection or appeal. This will provide the public with constructive notice of Forest Service proposals and decisions, provide information on the procedures to comment, appeal, or object, and establish the date that the Forest Service will use to determine if comments, appeals, or objections were timely.

DATES: Publication of legal notices in the listed newspapers will begin on the date of this publication and continue until further notice.

ADDRESSES: Roxanne Turley, Acting Regional Administrative Review Coordinator, Forest Service, Southwestern Region, 333 Broadway SE., Albuquerque, NM 87102–3498.

FOR FURTHER INFORMATION CONTACT: Roxanne Turley, Acting Regional Administrative Review Coordinator; (505) 842–3178.

SUPPLEMENTARY INFORMATION: The administrative procedures at 36 CFR parts 218 and 219 require the Forest Service to publish notices in a newspaper of general circulation. The content of the notices is specified in 36 CFR parts 218 and 219. In general, the notices will identify: The decision or project, by title or subject matter; the name and title of the official making the decision; how to obtain additional information; and where and how to file comments, appeals, or objections. The date the notice is published will be used to establish the official date for the beginning of the comment, appeal, or objection period. Where more than one newspaper is listed for any unit, the first newspaper listed is the primary newspaper of record of which publication date shall be used for calculating the time period to file comment, appeal, or an objection.

Southwestern Regional Office

Regional Forester

Notices of Availability for Comment and Decisions and Objections affecting New Mexico Forests:—"*Albuquerque Journal*", Albuquerque, New Mexico, for National Forest System Lands in the State of New Mexico for any projects of Region-wide impact, or for any projects affecting more than one National Forest or National Grassland in New Mexico. Regional Forester Notices of Availability for Comment and Decisions and Objections affecting Arizona Forests: —"*The Arizona Republic*", Phoenix, Arizona, for National Forest System lands in the State of Arizona for any projects of Region-wide impact, or for any projects affecting more than one National Forest in Arizona.

Regional Forester Notices of Availability for Comment and Decisions and Objections affecting National Grasslands in New Mexico, Oklahoma, and Texas are listed by Grassland and location as follows: Kiowa National Grassland notices published in: —"*Union County Leader*", Clayton New Mexico. Rita Blanca National Grassland in Cimarron County, Oklahoma notices published in: —"*Boise City News*", Boise City, Oklahoma. Rita Blanca National Grassland in Dallam County, Texas notices published in:—"*The Dalhart Texan*", Dalhart, Texas. Black Kettle National Grassland in Roger Mills County, Oklahoma notices published in: —"*Cheyenne Star*", Cheyenne, Oklahoma. Black Kettle National Grassland in Hemphill County, Texas notices published in: —"*The Canadian Record*", Canadian, Texas. McClellan Creek National Grassland in Gray County, Texas notices published in:—"*The Pampa News*", Pampa, Texas.

Regional Forester Notices of Availability for Comment and Decisions and Objections affecting only one National Forest or National Grassland unit will appear in the newspaper of record elected by each National Forest or National Grassland as listed below.

Arizona National Forests

Apache-Sitgreaves National Forests

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Alpine Ranger District, Black Mesa Ranger District, Lakeside Ranger District, and Springerville Ranger District are published in: —"*The White Mountain Independent*", Apache County, Arizona.

Clifton Ranger District Notices are published in:—"*Copper Era*", Clifton, Arizona.

Coconino National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Mogollon Rim Ranger District, and Flagstaff Ranger District are published in: —"*Arizona Daily Sun*", Flagstaff, Arizona.

Red Rock Ranger District Notices are published in: —"*Red Rock News*", Sedona, Arizona.

Coronado National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor and Santa Catalina Ranger District are published in: —"*The Arizona Daily Star*", Tucson, Arizona.

Douglas Ranger District Notices are published in: —"*Daily Dispatch*", Douglas, Arizona; notices for projects occurring within the Peloncillo Mountain Range (the Peloncillo Ecological Management Area) are published in: —"*Hidalgo County Herald*", Lordsburg, New Mexico.

Nogales Ranger District Notices are published in: —"*Nogales International*", Nogales, Arizona.

Sierra Vista Ranger District Notices for projects east of Highway 83 are published in: —"*Sierra Vista Herald*", Sierra Vista, Arizona; notices for projects west of Highway 83 are published in: —"*Nogales International*", Nogales, Arizona.

Safford Ranger District Notices are published in: —"*Eastern Arizona Courier*", Safford, Arizona.

Kaibab National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, North Kaibab Ranger District, Tusayan Ranger District, and Williams Ranger District Notices are published in: —"*Arizona Daily Sun*", Flagstaff, Arizona.

Prescott National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Bradshaw Ranger District, and Chino Valley Ranger District are published in: —"*Daily Courier*", Prescott, Arizona. Verde Ranger District Notices are published in: "*Verde Independent*", Cottonwood, Arizona.

Tonto National Forest

Notices for Availability for Comments, Decisions, and Objections by Forest Supervisor, Cave Creek Ranger District, and Mesa Ranger District are published in: —"*Arizona Capitol Times*", in Phoenix, Arizona.

Globe Ranger District Notices are published in: —"*Arizona Silver Belt*", Globe, Arizona. Payson Ranger District, Pleasant Valley Ranger District and Tonto Basin Ranger District Notices are published in: —"*Payson Roundup*", Payson, Arizona.

New Mexico National Forests

Carson National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Camino Real Ranger District, Tres Piedras Ranger District and Questa Ranger District are published in: —"*The Taos News*", Taos, New Mexico.

Canjilon Ranger District and El Rito Ranger District Notices are published in: —"*Rio Grande Sun*", Espanola, New Mexico.

Jicarilla Ranger District Notices are published in: —"*Farmington Daily Times*", Farmington, New Mexico.

Cibola National Forest and National Grasslands

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor affecting lands in New Mexico, except the National Grasslands are published in: —"*Albuquerque Journal*", Albuquerque, New Mexico.

Forest Supervisor Notices affecting National Grasslands in New Mexico, Oklahoma and Texas are published by grassland and location as follows: Kiowa National Grassland in Colfax, Harding, Mora and Union Counties, New Mexico published in: —"*Union County Leader*", Clayton, New Mexico. Rita Blanca National Grassland in Cimarron County, Oklahoma published in: —"*Boise City News*", Boise City, Oklahoma. Rita Blanca National Grassland in Dallam County, Texas published in: —"*The Dalhart Texan*", Dalhart, Texas. Black Kettle National Grassland, in Roger Mills County, Oklahoma published in:—"*Cheyenne Star*", Cheyenne, Oklahoma. Black Kettle National Grassland, in Hemphill County, Texas published in: —"*The Canadian Record*", Canadian, Texas. McClellan Creek National Grassland published in:—"*The Pampa News*", Pampa, Texas.

Mt. Taylor Ranger District Notices are published in: —"*Cibola County Beacon*", Grants, New Mexico.

Magdalena Ranger District Notices are published in: —"*Defensor-Chieftain*", Socorro, New Mexico.

Mountainair Ranger District Notices are published in: —"*Mountain View Telegraph*", Moriarity, New Mexico.

Sandia Ranger District Notices are published in: —"*Albuquerque Journal*", Albuquerque, New Mexico.

Kiowa National Grassland Notices are published in: —"*Union County Leader*", Clayton, New Mexico.

Rita Blanca National Grassland Notices in Cimarron County, Oklahoma are published in: —"*Boise City News*", Boise City, Oklahoma while Rita Blanca National Grassland Notices in Dallam County, Texas are published in: —"*Dalhart Texan*", Dalhart, Texas.

Black Kettle National Grassland Notices in Roger Mills County, Oklahoma are published in: —"*Cheyenne Star*", Cheyenne, Oklahoma, while Black Kettle National Grassland Notices in Hemphill County, Texas are published in:—"*The Canadian Record*", Canadian, Texas. McClellan Creek National Grassland Notices are published in: —"*The Pampa News*", Pampa, Texas.

Gila National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Quemado Ranger District, Reserve Ranger District, Glenwood Ranger District, Silver City Ranger District and Wilderness Ranger District are published in: —"*Silver City Daily Press*", Silver City, New Mexico.

Black Range Ranger District Notices are published in: —"*The Herald*", Truth or Consequences, New Mexico.

Lincoln National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor and the Sacramento Ranger District are published in:—"*Alamogordo Daily News*", Alamogordo, New Mexico.

Guadalupe Ranger District Notices are published in: —"*Carlsbad Current Argus*", Carlsbad, New Mexico.

Smokey Bear Ranger District Notices are published in: —"*Ruidoso News*", Ruidoso, New Mexico.

Santa Fe National Forest

Notices for Availability for Comments, Decisions and Objections by Forest Supervisor, Coyote Ranger District, Cuba Ranger District, Espanola Ranger District, Jemez Ranger District and Pecos-Las Vegas Ranger District are published in: —"*Albuquerque Journal*", Albuquerque, New Mexico.

Dated: June 27, 2016.

Sandra Watts,

Deputy Regional Forester, Southwestern Region.

[FR Doc. 2016–17325 Filed 7–20–16; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

New Mexico Collaborative Forest Restoration Program Technical Advisory Panel

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The New Mexico Collaborative Forest Restoration Program (CFRP) Technical Advisory Panel (Panel) will meet in Albuquerque, New Mexico. The Panel is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. II), and Title VI of the Community Forest Restoration Act (Pub. L. 106–393). Additional information concerning the Panel, including the meeting summary/minutes, can be found by visiting the Panel's Web site at: *http://www.fs.usda.gov/goto/r3/cfrp.*

DATES: The meeting will be held August 8, 2016–August 10, 2016, from 9:00 a.m. to 5:00 p.m. All meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Hyatt Place Albuquerque/Uptown, 6901 Arvada Avenue NE, Albuquerque, New Mexico. Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the

Cooperative and International Forestry Office. Please call ahead at to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Walter Dunn, Designated Federal Official, USDA Forest Service, 333 Broadway SE., Albuquerque, New Mexico 87102, by phone at (505) 842–3425, by email at *wdunn@fs.fed.us,* or via fax at (505) 842–3165.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Review Panel Bylaws, Charter, and what it means to be a Federal Advisory Committee,

(2) Evaluate and score the 2016 CFRP grant applicsiotns to determine which ones best meet the program objectives,

(3) Develop prioritized 2016 CFRP project funding recommendations for the Secretary,

(4) Develop an agenda and identify members for the 2016 CFRP Sub-Committee for the review of multi-party monitoring reports from completed projects, and

(5) Discuss the proposal review process used by the Panel to identify what went well and what could be improved.

The meeting is open to the public. Panel discussion is limited to Panel members and Forest Service staff. Project proponents may make brief presentations to the Panel summarizing their grant application and respond to questions of clarification from Panel members or Forest Service staff. However, the agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by August 5, 2016 to be scheduled on the agenda. Anyone who would like to bring CFRP grant application review related matters to the attention of the Panel may file written statements with the Panel staff before or after each day of the meeting. Written comments and time requests for oral comments must be sent to the person listed under **FOR FURTHER INFORMATION CONTACT**.

A summary of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: June 15, 2016.

Jim Upchurch,

Deputy Regional Forester.

[FR Doc. 2016–17222 Filed 7–20–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–15–2016]

Production Activity not Authorized, Foreign-Trade Zone 87—Lake Charles, Louisiana, Sasol Chemicals (USA), LLC, Subzone 87E, (Assembly of Ethylene Distillation/Rectification Plant and Ethane Cracker/Reaction Unit; Production of Polyethylene) Westlake and Sulphur, Louisiana

On March 17, 2016, Sasol Chemicals (USA), LLC (Sasol) submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its sites within Subzone 87E in Westlake and Sulphur, Louisiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 18572–18573). Pursuant to Section 400.37, the FTZ Board has determined that further review is warranted and has not authorized the proposed activity. If the applicant wishes to seek authorization for this activity, it will need to submit an application for production authority, pursuant to Section 400.23.

Dated: July 15, 2016.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2016–17304 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Notice of Correction to Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

On June 21, 2016, the Department of Commerce (the Department) uploaded the unpublished preliminary results notice of the administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Malaysia to Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).[1] On June 24, 2016, the Department published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on PRCBs from Malaysia.[2] Upon review of the published preliminary results notice, however, we found that it contained an inadvertent error. Accordingly, we are publishing this correction notice. The *Preliminary Results* contained an inadvertent error related to the signature block. Specifically, the published notice for the *Preliminary Results* incorrectly indicated that Paul Piquado, Assistant Secretary for Enforcement and Compliance, was the signing authority when, in fact, the *Preliminary Results* were signed by Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance.[3] The due dates to file case and rebuttal briefs and request a hearing remain the dates established in the *Preliminary Results.*

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[1] *See* Bar code 3479952. ACCESS is available to registered users at *https://access.trade.gov.* The unpublished notice is also available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

[2] *See Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review;* 2014–2015, 81 FR 41294 (June 24, 2016) (*Preliminary Results*).

[3] *Id.*, at 41295.

This correction to the *Preliminary Results* is issued and published in accordance with sections 751(a)(1), 751(a)(2)(A)(i) and (ii), 751(a)(3) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(h) and 351.221(b)(4).

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–17307 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–979]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen or Erin Kearney, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–2769 or (202) 482–0167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 2012 the Department of Commerce (Department) published in the **Federal Register** the antidumping duty order on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the People's Republic of China (PRC) (Order).[1] On December 1, 2015, the Department published a notice of opportunity to request an administrative review of the Order.[2] The Department received multiple timely requests for an administrative review of the Order. On February 9, 2016, in accordance with section 751(a) of Tariff Act of 1930, as amended (the Act), the Department published in the **Federal Register** a notice of the initiation of an administrative review of the Order.[3] The administrative review was initiated with respect to 44 companies or groups of companies, and covers the period from December 1, 2014, through November 30, 2015. Requesting parties have subsequently timely withdrawn all review requests for five companies or groups of companies for which the Department initiated a review, as discussed below.

Rescission of Review, in Part

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. All requesting parties withdrew their respective requests for an administrative review of the five companies or groups of companies listed in the Appendix within 90 days of the date of publication of *Initiation Notice.* Accordingly, the Department is rescinding this review with respect to these companies, in accordance with 19 CFR 351.213(d)(1).[4]

Assessment

The Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. For the companies for which this review is rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(l)(i). The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of this notice.

Notification to Importers

This notice serves as the only reminder to importers whose entries will be liquidated as a result of this rescission notice, of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that the reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: July 13, 2016.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

- Jinko Solar Co., Ltd.
- Jinko Solar Import and Export Co., Ltd.
- JinkoSolar International Limited
- Yingli Green Energy International Trading Company Limited
- Zhejiang Jinko Solar Co., Ltd.

[FR Doc. 2016–17302 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–880]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes)

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[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (December 7, 2012).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 80 FR 75058 (December 1, 2015).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 6832 (February 9, 2016) ("*Initiation Notice*").

[4] *See* Appendix. As stated in *Change in Practice in NME Reviews,* the Department will no longer consider the non-market economy ("NME") entity as an exporter conditionally subject to administrative reviews. *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013) ("*Change in Practice in NME Reviews*"). The PRC-wide entity is not subject to this administrative review because no interested party requested a review of the entity. *See Initiation Notice.*

from the Republic of Korea (Korea) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the "Final Determination" section of this notice.

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood or Alice Maldonado, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3874 or (202) 482–4682, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2016, the Department published the *Preliminary Determination* of sales at LTFV of HWR pipes and tubes from Korea.[1] A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers HWR pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in February and March 2016, we verified the sales and cost information submitted by mandatory respondents Dong-A Steel Company (DOSCO) and HiSteel Co., Ltd (HiSteel) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by DOSCO and HiSteel.[3]

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for DOSCO and HiSteel. For a discussion of these changes, *see* the "Margin Calculations" section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. For the final determination, the Department calculated the "all others" rate based on a weighted average of DOSCO's and HiSteel's margins using publicly-ranged quantities of their sales of subject merchandise.[4]

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margin (percent)
Dong-A Steel Company	2.34
HiSteel Co., Ltd	3.82
All Others	3.24

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of HWR pipes and tubes from Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 1, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**.

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[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea: Final Determination of Sales at Less Than Fair Value,* 81 FR 10585 (March 1, 2016) (*Preliminary Determination*).

[2] *See* Memorandum to Paul Piquado, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea," dated concurrently with this notice (Issues and Decision Memorandum).

[3] *See* Memorandum to the File from Alice Maldonado and Elizabeth Eastwood, Senior Analysts, and Whitley Herndon, Analyst, entitled, "Verification of the Sales Response of DOSCO America, Inc. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea," dated April 6, 2016; Memorandum to the file from Alice Maldonado and Elizabeth Eastwood, Senior Analysts, and Whitley Herndon, Analyst, entitled, "Verification of the Sales Response of Dong-A Steel Company in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea," dated April 8, 2016; Memorandum to the File, from Heidi K. Schriefer and Kristin Case, Senior Accountants, entitled, "Verification of the Cost Response of Dong-A Steel Company in the Antidumping Duty Less Than Fair Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea," dated April 5, 2016; Memorandum to the file from Elizabeth Eastwood and Alice Maldonado, Senior Analysts, and Whitley Herndon, Analyst, entitled, "Verification of the Sales Response of HiSteel Co., Ltd. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Korea," dated April 6, 2016; and Memorandum to the File, from Kristin L. Case, Senior Accountant, entitled, "Verification of the Cost Response of HiSteel Co., Ltd. in the Less-Than-Fair-Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea," dated April 6, 2016.

[4] *See* Memorandum to the File from Alice Maldonado, Senior Analyst, entitled, "Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea: Calculation of the Final Margin for All Other Companies," dated July 14, 2016. With two respondents, we normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part,* 75 FR 53661, 53663 (September 1, 2010).

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of HWR pipes and tubes from Korea no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation
IV. Margin Calculations
V. Discussion of the Issues
  1. U.S. Date of Sale
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  3. Costs for Non-Prime Merchandise
  4. Differential Pricing Rulemaking
  5. Differential Pricing Patterns and a Meaningful Difference
  6. Verification Corrections
  7. DOSCO's Constructed Export (CEP) Offset Claim
  8. Raw Material Costs for DOSCO
VI. Recommendation

[FR Doc. 2016–17313 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–825]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are being provided to producers and exporters of heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from the Republic of Turkey (Turkey) as provided in section 705 of the Tariff Act of 1930, as amended (the Act). For information on the estimated subsidy rates, *see* the "Final Determination" section of this notice. The period of investigation (POI) is January 1, 2014, through December 31, 2014.

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Brian Smith or Aqmar Rahman, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1766 or (202) 482–0768, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Determination* on December 28, 2015.[1] A summary of the events that occurred since the Department issued the *Preliminary Determination* may be found in the Issues and Decision Memorandum which is hereby incorporated.[2] Additionally, this memorandum details the changes we made since the *Preliminary Determination* to the subsidy rates calculated for the mandatory respondents and all other producer/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the

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[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Preliminary Affirmative Countervailing Duty Investigation and Alignment of Final Determination With Final Antidumping Duty Determination,* 80 FR 80749 (December 28, 2015) (*Preliminary Determination*).

[2] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of Heavy Walled Rectangular Carbon Steel Pipes and Tubes from the Republic of Turkey: Issues and Decision Memorandum for the Final Determination," dated concurrently with this notice (Issues and Decision Memorandum).

Issues and Decision Memorandum can be accessed directly at *http://trade.gov/enforcement.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final determination is July 14, 2016.[3]

Scope of the Investigation

The merchandise covered by this investigation is HWR pipes and tubes from Turkey. For a complete description of the scope of this investigation, *see* Appendix I.

The Department did not receive comments regarding the scope of this investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, is attached to this notice at Appendix II.

Use of Facts Available, Including Adverse Inferences

In making this final determination, we relied, in part, on facts available and, because MMZ Onur Boru Profil uretim San Ve Tic. A.S. (MMZ) and Ozdemir Boru Profil San ve Tic. Ltd Sti. (Ozdemir) did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available with respect to those respondents.[4] For further information, *see* the section "Use of Facts Otherwise Available and Adverse Inferences" in the accompanying Issues and Decision Memorandum.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated rates for MMZ and Ozdemir, the two individually investigated exporters/producers of the subject merchandise that participated in this investigation. In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents by those companies' exports of the subject merchandise to the United States. The "all-others" rate does not include zero and *de minimis* rates or any rates based solely on the facts available.[5] We intend to disclose to parties the calculations performed in this proceeding within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

We determine the countervailable subsidy rates to be:

Exporter/Producer	Subsidy rate (percent)
MMZ Onur Boru Profil uretim San Ve Tic. A.S	23.37
Ozdemir Boru Profil San ve Tic. Ltd Sti	15.08
All Others	19.06

Suspension of Liquidation

As a result of our affirmative *Preliminary Determination,* and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of merchandise under consideration from Turkey that were entered or withdrawn from warehouse, for consumption, on or after December 28, 2015, the date of publication of the *Preliminary Determination* in the **Federal Register**.

In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after April 26, 2016, but to continue the suspension of liquidation of all entries from December 28, 2015 through April 25, 2016.

We will issue a CVD order and reinstate the suspension of liquidation in accordance with our final determination and under section 706(a) of the Act if the United States International Trade Commission (ITC) issues a final affirmative injury determination, and we will instruct CBP to require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited as a result of the suspension of liquidation will be refunded.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to an APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and

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[3] *See* Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, "Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas" (January 27, 2016).

[4] *See* sections 776(a) and (b) of the Act.

[5] *See* Memorandum to the File, "Calculation of the 'All-Others' Rate in the Final Determination of the Countervailing Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey" (July 14, 2016). We calculated a weighted average of the rates of MMZ and Ozdemir using publicly-ranged data so as not to disclose the respondents' business proprietary information.

(3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
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  A. Allocation Period
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VI. Analysis of Programs
  A. Programs Determined to be Countervailable
  1. Provision of HRS for LTAR
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VII. Analysis of Comments
  Comment 1: Provision of HRS for LTAR
  A. Whether Erdemir and Isdemir Are "Authorities"
  B. Whether the HRS for LTAR Program is *De Facto* Specific
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VIII. Conclusion

[FR Doc. 2016–17315 Filed 7–20–16; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People's Republic of China: Continuation of Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce ("Department") and the International Trade Commission ("ITC") that revocation of the antidumping duty ("AD") order on magnesium metal from the People's Republic of China ("PRC") would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, the Department is publishing a notice of continuation of the AD order.

DATES: *Effective Date* July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6386.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2016, the Department published the notice of initiation of the second five-year ("sunset") review of the AD *Order*[1] on magnesium metal from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").[2] As a result of its review, the Department determined that revocation of the AD order would likely lead to a continuation or recurrence of dumping.[3] The Department, therefore, notified the ITC of the magnitude of the margins likely to prevail should the AD order be revoked. On July 7, 2016, the ITC published notice of its determination, pursuant to section 751(c) of the Act, that revocation of the AD order on magnesium metal from the PRC would likely lead to a continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[4]

Scope of the Order

The merchandise covered by the order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-backed scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an "ASTM Specification for Magnesium Alloy"[5] and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as "alloy" magnesium).

The scope of this order excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an "ASTM Specification for Magnesium Alloy";[6] (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain

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[1] *See Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China,* 70 FR 19928 (April 15, 2005) ("*Order*").

[2] *See Initiation of Five-Year ("Sunset") Review,* 82 FR 5418 (February 2, 2016) ("*Initiation Notice*").

[3] *See Magnesium Metal From the People's Republic of China: Final Results of Expedited Second Sunset Review of Antidumping Duty Order,* 81 FR 36874 (June 8, 2016).

[4] *See Alloy Magnesium From China; Determination,* 81 FR 44328 (July 7, 2016).

[5] The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[6] The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 57936 (November 19, 2001).

non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[7]

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Continuation of the Order

As a result of the determinations by the Department and the ITC that revocation of the AD order would likely lead to a continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), the Department hereby orders the continuation of the AD *Order* on magnesium metal from the PRC. U.S. Customs and Border Protection will continue to collect AD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise.

The effective date of the continuation of the *Order* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of the order not later than 30 days prior to the fifth anniversary of the effective date of continuation.

This five-year sunset review and this notice are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–17206 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–847]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from Mexico are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the "Final Determination" section of this notice.

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Blaine Wiltse or David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–6345 or (202) 482–3693, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2016, the Department published the *Preliminary Determination*.[1] A summary of the events that occurred since the Department published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers HWR pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html*. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in February and March 2016, we conducted verification of the sales and cost information submitted by Maquilacero S.A. de C.V. (Maquilacero) and Productos Laminados de Monterrey S.A. de C.V. (Prolamsa) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Maquilacero and Prolamsa.[3]

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[7] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico: Affirmative Preliminary Determination of Sales at Less Than Fair Value*, 81 FR 10587 (March 1, 2016) (*Preliminary Determination*).

[2] *See* Memorandum to Paul Piquado, entitled, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated concurrently with this memorandum (Issues and Decision Memorandum).

[3] *See* Memorandum to the File from Blaine Wiltse and David Crespo, Senior Analysts, entitled, "Verification of the Sales Response of Maquilacero S.A. de C.V. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated April 15, 2016; Memorandum to the File from Frederick W. Mines, Accountant, and Robert B. Greger, Senior Accountant, entitled, "Verification of the Cost Response of Maquilacero S.A. de C.V. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipe and Tube from Mexico," dated May 11, 2016; Memorandum to the File from David Crespo, Senior Analyst, and Manuel Rey, Analyst, entitled, "Verification of Prolamsa USA in the 2014–2015 Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated May 9, 2016; Memorandum to the File from David Crespo and Blaine Wiltse, Senior Analysts, entitled, "Verification of the Sales Response of Productos

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Maquilacero and Prolamsa. For a discussion of these changes, *see* the "Margin Calculations" section of the Issues and Decision Memorandum.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. For the final determination, the Department calculated the "all-others" rate based on a weighted average of Maquilacero's and Prolamsa's margins using publicly-ranged quantities of their sales of subject merchandise.[4]

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margin (percent)
Maquilacero S.A. de C.V	3.83
Productos Laminados de Monterrey, S.A. de C.V	5.21
All Others	4.91

Disclosure

We will disclose the calculations performed within five days of the date of any public announcement of this determination to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of HWR pipes and tubes from Mexico, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 1, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**.

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of HWR pipes and tubes from Mexico no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–500, grade B specifications, or comparable domestic or foreign specifications.

Included products are those in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Investigation

Laminados de Monterrey S.A. de C.V. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated May 11, 2016; Memorandum to the File, from David Crespo and Blaine Wiltse, Senior Analysts, entitled, "Verification of the Sales Response of a Reseller in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated May 17, 2016; and Memorandum to the File from Robert B. Greger, Senior Accountant, entitled, "Verification of Productos Laminados de Monterrey, S.A. de C.V. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes & Tubes From Mexico," dated March 31, 2016.

[4] *See* Memorandum to the File from David Crespo, Senior Analyst, entitled, "Calculation of the All-Others Rate for the Final Determination in the Less-Than-Fair-Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From Mexico," dated July 14, 2016. With two respondents, we normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company's publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

IV. Margin Calculations

V. Discussion of the Issues

1. Weight Basis for Comparison Methodology
2. Home Market Rebates
3. Home Market Commission Expenses
4. Miscellaneous Adjustments Resulting from Sales Verification
5. Purchases of Hot-Rolled Coils (HRC) from an Affiliated Supplier
6. Interest Income Offsets
7. Other Cost Corrections at Verification
8. Level of Trade (LOT)
9. Constructed Export Price (CEP) Offset Claim
10. Affiliated Reseller Warehousing Expenses
11. Credit Expenses
12. U.S. Indirect Selling Expenses (ISE)
13. Scrap Offset

VI. Recommendation

[FR Doc. 2016–17314 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Correction to Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION: On July 7, 2016, the Department of Commerce (the Department) published *Initiation of Antidumping and Countervailing Duty Administrative Reviews;* 81 FR 44260 (July 7, 2016) (*Initiation Notice*) in which the Department inadvertently initiated an antidumping duty administrative review of Certain Welded Carbon Steel Standard Pipes and Tubes from India. The Department did not receive a request for review covering the period May 1, 2015, through April 30, 2016, with respect to any companies, as such, we are not initiating a review with respect to this order. In addition, in the *Initiation Notice* the Department misspelt Overseas Distribution Services Inc. as Overseas Distrubution Services Inc.[1] This notice serves as a correction to the *Initiation Notice.*

Dated: July 14, 2016.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2016–17205 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC), Request for Nominations

AGENCY: International Trade Administration, DOC.

ACTION: Solicitation of Nominations for Membership to the Environmental Technologies Trade Advisory Committee (ETTAC).

SUMMARY: This notice sets forth a request for nominations to serve on the Environmental Technologies Trade Advisory Committee (ETTAC). The ETTAC was established pursuant to provisions under Title IV of the Jobs Through Trade Expansion Act, 22. U.S.C. 2151, and under the Federal Advisory Committee Act, 5 U.S.C. App. 2. ETTAC was first chartered on May 31, 1994. ETTAC serves as an advisory body to the Environmental Trade Working Group of the Trade Promotion Coordinating Committee (TPCC), reporting directly to the Secretary of Commerce in his/her capacity as Chairman of the TPCC. ETTAC advises on the development and administration of policies and programs to expand U.S. exports of environmental technologies, goods, and services.

DATES: Nominations for membership must be received on or before September 15, 2016.

ADDRESSES: Please send nominations by post, email, or fax to the attention of Maureen Hinman, Designated Federal Officer/ETTAC, Office of Energy & Environmental Industries, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4053, Washington, DC 20230; phone 202–482–0627; email *maureen.hinman@trade.gov;* fax 202–482–5665. Electronic responses should be submitted in Microsoft Word format.

FOR FURTHER INFORMATION CONTACT: Ms. Maureen Hinman, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 4053, 1401 Constitution Avenue NW., Washington, DC 20230. (Phone: 202–482–0627; Fax: 202–482–5665; email: *maureen.hinman@trade.gov*).

SUPPLEMENTARY INFORMATION:

Nominations: The Secretary of Commerce invites nominations to ETTAC of U.S. citizens who will represent U.S. environmental goods and services companies that trade internationally, or trade associations and non-profit organizations whose members include U.S. companies that trade internationally. Companies must be at least 51 percent owned by U.S. persons. No member may represent a company that is majority-owned or controlled by a foreign government entity or foreign government entities.

Membership in a committee operating under the Federal Advisory Committee Act must be balanced in terms of economic subsector, geographic location, and company size. Committee members serve in a representative capacity and must be able to generally represent the views and interests of a certain subsector of the U.S. environmental industry. Candidates should be senior executive-level representatives from environmental technology companies, trade associations, and non-profit organizations. Members of the ETTAC must have experience in the exportation of environmental goods and/or services, including:

(1) Air pollution control and monitoring technologies;

(2) Analytic devices and services;

(3) Environmental engineering and consulting services;

(4) Financial services relevant to the environmental sector;

(5) Process and pollution prevention technologies;

(7) Solid and hazardous waste management technologies; and/or

(8) Water and wastewater treatment technologies.

Nominees will be evaluated based upon their ability to carry out the goals of the ETTAC's enabling legislation. ETTAC's current Charter is available on the internet at *http://www.environment.ita.doc.gov* under the tab: *Advisory Committee.* Appointments will be made to create a balanced Committee in terms of subsector representation, product lines, firm size, geographic area, and other criteria. Nominees must be U.S. citizens.

All appointments are made without regard to political affiliation. Members shall serve at the pleasure of the Secretary from the date of appointment to the Committee to the date on which the Committee's charter terminates (normally two years).

If you are interested in becoming a member of ETTAC, please provide the following information (2 pages maximum):

(1) Name;

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[1] *See Initiation Notice,* 81 FR at 44266.

(2) Title;

(3) Work phone; fax; and email address;

(4) Organization name and address, including Web site address;

(5) Short biography of nominee, including written certification of U.S. citizenship (this may take form of the statement "I am a citizen of the United States") and a list of citizenships of foreign countries;

(6) Brief description of the organization and its business activities, including;

(7) Company size (number of employees and annual sales);

(8) Exporting experience;

(9) An affirmative statement that the nominee will be able to meet the expected time commitments of Committee work. Committee work includes (1) attending in-person committee meetings approximately four times per year, (2) undertaking additional work outside of full committee meetings including subcommittee conference calls or meetings as needed, and (3) drafting or commenting on proposed recommendations to be evaluated at Committee meetings.

Please do not send company or trade association brochures or any other information.

Dated: July 15, 2016.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2016–17204 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–824]

Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) determines that heavy walled rectangular welded carbon steel pipes and tubes (HWR pipes and tubes) from the Republic of Turkey (Turkey) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2014, through June 30, 2015. The final dumping margins of sales at LTFV are listed below in the "Final Determination" section of this notice.

DATES: Effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Ross Belliveau or Rebecca Trainor, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4952 and (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2016,[1] the Department published the *Preliminary Determination*. A summary of the events that occurred since the Department published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

Scope of the Investigation

The scope of the investigation covers HWR pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. For a complete description of the scope of the investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov* and it is available to all parties in the Central Records Unit, room B–8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in March and April 2016, we conducted verification of the sales and cost information submitted by MMZ Boru Profil Uretim Sanayi Ve Tic. A.S. (MMZ) and Ozdemir Boru Profil San. Ve Tic. Ltd. Sti. (Ozdemir) for use in our final determination. We used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by MMZ and Ozdemir.[3]

Changes Since the Preliminary Determination and Use of Adverse Facts Available

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Ozdemir. In addition, we revised the margin for MMZ to reflect the application of facts available with an adverse inference, pursuant to sections 776(a)(1), 776(a)(2)(A), (C), and (D), and 776(b) of the Act. For a discussion of these changes, *see* the Issues and Decision Memorandum. We also revised the all-others rate as explained below.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins, and margins determined entirely under section 776 of the Act. Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis* or determined based entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated dumping margin for all other producers or exporters. We calculated a margin of zero percent for the only cooperative mandatory respondent in this investigation, Ozdemir, and applied a margin based entirely on adverse facts available (AFA) for MMZ. Therefore, pursuant to section 735(c)(5)(B) of the Act, we determine that it is reasonable to calculate the all-others rate based on a simple average of Ozdemir's zero percent margin and MMZ's AFA margin.[4]

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[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey: Final Determination of Sales at Less Than Fair Value,* 81 FR 10583 (March 1, 2016) (*Preliminary Determination*).

[2] *See* Memorandum to Paul Piquado, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey," dated concurrently with this notice (Issues and Decision Memorandum).

[3] For discussion of our verification findings with respect to each company, *see* the following memoranda: Memorandum to the File from Rebecca Trainor and Aqmar Rahman, "Verification of the Sales Response of MMZ Onur Boru Profil Uretim Sanayi Ve Tic. A.S. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated May 16, 2016; Memorandum to the File from Gary Urso and Stephanie Arthur, "Verification of the Cost Response of MMZ Onur Boru Profil Uretim Sanayi. Ve Tic. in the Antidumping Duty Less Than Fair Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey," dated May 6, 2016; Memorandum to the File from Ross Belliveau, "Verification of the Sales Response of Ozdemir Boru Profil San. Ve Tic. Ltd. Sti. in the Antidumping Duty Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Turkey," dated May 17, 2016; and Memorandum to the File from Stephanie Arthur and Gary Urso, "Verification of the Cost Response of Ozdemir Boru Profil San. Ve Tic. Ltd. Sti. in the Antidumping Duty Less Than Fair Value Investigation of Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Turkey," dated May 6, 2016.

Final Determination

The final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-average dumping margins (percent)	Cash deposit rate (percent)
MMZ Boru Profil Uretim Sanayi Ve Tic. A.S	35.66	35.66
Ozdemir Boru Profil San. Ve Tic. Ltd. Sti	0.00	0.00
All Others	17.83	17.73

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of HWR pipes and tubes from Turkey, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after March 1, 2016, the date of publication of the preliminary determination of this investigation in the **Federal Register**. In the event an AD order is issued, because Ozdemir's weighted-average dumping margin is zero, Ozdemir would be excluded from the AD order.

Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above, adjusted where appropriate for export subsidies found in the final determination of the companion countervailing duty investigation. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash deposit equal to the amount by which the NV exceeds the U.S. price, less the amount of the countervailing duty determined to constitute any export subsidies.[5] Therefore, in the event that a countervailing duty order is issued and suspension of liquidation is resumed in the companion countervailing duty investigation on HWR pipes and tubes from Turkey, the Department will instruct CBP to require cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate chart, above.[6] Until such suspension of liquidation is resumed in the companion countervailing duty investigation, and so long as suspension of liquidation continues under this antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the weighted-average margin column in the rate chart, above.

International Trade Comission (ITC) Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of HWR pipes and tubes from Turkey no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 14, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The products covered by this investigation are certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The merchandise includes, but is not limited to, the American Society for Testing and Materials (ASTM) A–500, grade B specifications, or comparable domestic or foreign specifications.

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[4] *See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia, 69 FR 34128 (June 18, 2004).*

[5] *See, e.g., Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value,* 80 FR 61362 (October 13, 2015) and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Critical Circumstances Determination: Bottom Mount Combination Refrigerator-Freezers From the Republic of Korea,* 77 FR 17413 (March 26, 2012).

[6] *See* Memorandum to the File from Rebecca Trainor, "Calculation of the All Others Rate," dated concurrently with this notice.

Included products are those in which: (1) Iron predominates, by weight, over each of the other contained elements; (2) the carbon content is 2 percent or less, by weight; and (3) none of the elements below exceeds the quantity, by weight, respectively indicated:

- 2.50 percent of manganese, or
- 3.30 percent of silicon, or
- 1.50 percent of copper, or
- 1.50 percent of aluminum, or
- 1.25 percent of chromium, or
- 0.30 percent of cobalt, or
- 0.40 percent of lead, or
- 2.0 percent of nickel, or
- 0.30 percent of tungsten, or
- 0.80 percent of molybdenum, or
- 0.10 percent of niobium (also called columbium), or
- 0.30 percent of vanadium, or
- 0.30 percent of zirconium.

The subject merchandise is currently provided for in item 7306.61.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also enter under HTSUS 7306.61.3000. While the HTSUS subheadings and ASTM specification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
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IV. Margin Calculations
V. Application of Facts Available and Use of Adverse Inference
VI. Discussion of the Issues
  1. Assignment of Margin Based on AFA to MMZ
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  3. Calculation of Duty Drawback Adjustment
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  5. Offset of Duty Drawback Adjustment for Related Expenses
  6. Application of the Duty Drawback Adjustment in the Margin Program
  7. U.S. Date of Sale
  8. Short-Term Interest Rate in the Home Market
  9. Returns
  10. Adjustments to Ozdemir's Cost of Manufacturing
  11. Reallocation of Costs for Non-Prime Merchandise
VII. Recommendation

[FR Doc. 2016–17316 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of State Coastal Management Programs

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a second public meeting to solicit comments on the performance evaluation of the Oregon Coastal Management Program.

DATES: *Oregon Coastal Management Program Evaluation:* The public meeting will be held on September 7, 2016, and written comments must be received on or before September 9, 2016.

For specific dates, times, and locations of the public meetings, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit comments on the program or reserve NOAA intends to evaluate by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Portland, Oregon. For the specific location, see **SUPPLEMENTARY INFORMATION**.

Written Comments: Please direct written comments to Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or email comments *Carrie.Hall@noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov*. Copies of the previous evaluation findings and related material (including past performance reports and notices prepared by NOAA's Office for Coastal Management) may be obtained upon written request by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**. Copies of the most recent evaluation findings and most recent progress report may also be downloaded or viewed on the Internet at *http://coast.noaa.gov/czm/evaluations*.

SUPPLEMENTARY INFORMATION: Section 312 of the Coastal Zone Management Act (CZMA) requires NOAA to conduct periodic evaluations of federally approved state and territorial coastal programs. The process includes one or more public meetings, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. During the evaluation, NOAA will consider the extent to which the state has met the national objectives, adhered to the management program approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the CZMA. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Specific information on the periodic evaluation of the state and territorial coastal program that is the subject of this notice is detailed below as follows:

Oregon Coastal Management Program Evaluation

You may participate or submit oral comments at the public meeting scheduled as follows:

Date: September 7, 2016.

Time: 5:00 p.m., local time.

Location: 1201 NE Lloyd Blvd. 1st Floor Conference Room (Room #140), Portland, Oregon 97232.

Written public comments must be received on or before September 9, 2016.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: July 14, 2016.

John King,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–17217 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE692

Determination of Overfishing or an Overfished Condition

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: This action serves as a notice that NMFS, on behalf of the Secretary of Commerce (Secretary), has found that the Atlantic bigeye tuna stock is subject to overfishing. In addition, Gulf of Mexico gray triggerfish and Gulf of Mexico red snapper continue to be overfished. NMFS, on behalf of the Secretary, notifies the appropriate fishery management council (Council) whenever it determines that overfishing is occurring, a stock is in an overfished condition, a stock is approaching an overfished condition, or when a rebuilding plan has not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks.

FOR FURTHER INFORMATION CONTACT: Regina Spallone, (301) 427–8568.

SUPPLEMENTARY INFORMATION: Pursuant to sections 304(e)(2) and (e)(7) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1854(e)(2) and (e)(7), and implementing regulations at 50 CFR 600.310(e)(2), NMFS, on behalf of the Secretary, must notify Councils whenever it determines that a stock or stock complex is overfished or approaching an overfished condition; or if an existing rebuilding plan has not ended overfishing or resulted in adequate rebuilding progress. NMFS also notifies Councils when it determines a stock or stock complex is subject to overfishing. Section 304(e)(2) further requires NMFS to publish these notices in the **Federal Register**.

NMFS has determined that the Atlantic bigeye tuna stock is subject to overfishing, based on a 2015 stock assessment conducted by the Standing Committee on Research and Statistics (SCRS), which is the scientific body of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The 2015 assessment also resulted in a determination of "not overfished—rebuilding" under the applicable domestic status determination criteria. NMFS manages Atlantic bigeye tuna under its 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan and amendments, consistent with the Magnuson-Stevens Act and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.*, and ICCAT's "Multi-Annual Conservation and Management Program," adopted in 2010.

NMFS has also determined that Gulf of Mexico gray triggerfish and Gulf of Mexico red snapper continue to be overfished. The Gulf of Mexico Fishery Management Council has been informed that they must rebuild these stocks.

Dated: July 14, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–17163 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Estuarine Research Reserve System

AGENCY: Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of Approval for the Padilla Bay, Washington National Estuarine Research Reserve Management Plan revision.

SUMMARY: Under 15 CFR 921.33(d), notice is hereby given that the Stewardship Division, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce approves the revised Management Plan for Padilla Bay, Washington National Estuarine Research Reserve Management Plan. In accordance with 15 CFR 921.33(c), the Padilla Bay Reserve revised its Management Plan, which will replace the plan previously approved in 2008.

The revised Management Plan outlines the administrative structure; the research/monitoring, stewardship, education, and training programs of the Reserve; and the plans for future land acquisition and facility development to support Reserve operations.

The Padilla Bay Reserve takes an integrated approach to management, linking research, education, coastal training, and stewardship functions. The Reserve has outlined how it will manage administration and its core program providing detailed actions that will enable it to accomplish specific goals and objectives. Since the last Management Plan, the Reserve has built out its core programs and monitoring infrastructure; conducted an educational market analysis and needs assessment to better meet teacher needs and underserved audiences; developed a Reserve Disaster Response Plan; and improved public access to the Reserve through construction of a new boat launch ramp and enhanced trails.

On March 10, 2016, NOAA issued a notice of a thirty day public comment period for the Padilla Bay Reserve revised plan (81 FR 12716). Responses to the written and oral comments received, and an explanation of how comments were incorporated into the final revised plan, are available in Appendix G of the revised plan.

Since the last management plan was approved in 2008, the Padilla Bay Reserve has acquired an additional 110 acres of tidelands inside the Reserve boundary. With the approval of this management plan, the Padilla Bay Reserve will increase their total acreage to 11,966. The change is attributable to the recent acquisitions of several parcels by the Reserve state agency, totaling 110 acres. All of the proposed additions are owned by the Washington Department of Ecology and will be managed for long-term protection and conservation value. These parcels have high ecological value and will enhance the Reserve's ability to provide increased opportunities for research, education, and stewardship. The revised Management Plan will serve as the guiding document for the expanded 11,966 acre Padilla Bay Reserve. View the Padilla Bay, Washington Reserve Management Plan at *http://www.padillabay.gov/pdfs/ManagementPlan_2016-2020.pdf.*

The impacts of the revised management plan have not changed and the initial Environmental Impact Statement (EIS) prepared at the time of designation is still valid. NOAA determined that the revision of the management plan will not have a significant effect on the human environment and therefore qualifies for a categorical exclusion under NOAA Administrative Order 216–6. An environmental assessment will not be prepared.

FOR FURTHER INFORMATION CONTACT: Bree Turner at (206) 526–4641 or Erica Seiden at (301) 563–1172 of NOAA's National Ocean Service, Office for Coastal Management, Stewardship Division, 1305 East-West Highway, N/ORM5, 10th Floor, Silver Spring, MD 20910.

Dated: July 14, 2016.

John King,

Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2016–17216 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE732

Threatened Species; Take of Steelhead

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce.

ACTION: Notice of receipt for one scientific enhancement permit application.

SUMMARY: Notice is hereby given that NMFS has received an application from Stillwater Sciences for one U.S. Endangered Species Act (ESA) section 10(a)1(A) scientific enhancement permit (permit 20085) to conduct invasive species removal from a southern California watershed (Chorro Creek). Proposed activities within the requested permit are expected to affect the threatened Southern Central California Coast (SCCC) Distinct Population Segment of steelhead (*Oncorhynchus mykiss*). The public is hereby notified that the application for Permit 20085 is available for review and comment before NMFS either approves or disapproves the application.

DATES: Written comments on the permit application must be received at the appropriate address, email mailbox, or fax number (see **ADDRESSES**) on or before August 22, 2016.

ADDRESSES: Written comments on the permit application should be submitted by one of the following methods:

- *Email: FRNpermits.lb@noaa.gov.*
- *Mail:* Matt McGoogan, NMFS, California Coastal Area Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, California 90802.
- *Fax* (562) 980–4027.

The permit application is available for review, by appointment, at the foregoing address or online at the Authorizations and Permits for Protected Species Web site: ***https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.***

FOR FURTHER INFORMATION CONTACT: Matt McGoogan (phone: 562–980–4026 or email: *matthew.mcgoogan@noaa.gov*).

SUPPLEMENTARY INFORMATION: *Species Covered in This Notice:* Threatened South Central California Coast Distinct Population Segment of steelhead (*Oncorhynchus mykiss*).

Scientific research and enhancement permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–227). NMFS issues permits based on findings that such permits (1) are applied for in good faith, (2) would not operate to the disadvantage of the listed species which are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and any comment submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period and consideration of any comment submitted therein. NMFS will publish notice of its final action in the **Federal Register**.

Those individuals requesting a hearing on the application listed in this notice should provide the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). Such a hearing is held at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Permit Application Received

Permit 20085

Stillwater Sciences (environmental consulting firm) has applied for a section 10(a)1(A) scientific enhancement permit (permit 20085) to conduct an invasive species management effort involving the removal of Sacramento pikeminnow (*Ptychocheilus grandis*) from the Chorro Creek watershed in San Luis Obispo County, California. The primary objectives of this effort involve: (1) Determining the distribution, abundance, size, and age structures of both pikeminnow and SCCC steelhead; (2) suppressing and eliminating pikeminnow from the watershed; (3) developing a plan for long-term pikeminnow management in the watershed; and (4) documenting changes in SCCC steelhead abundance and distribution in response to pikeminnow removal. Proposed enhancement activities include: (1) Conducting snorkel surveys to assess abundance and distribution of pikeminnow and SCCC steelhead; (2) using backpack electrofishing equipment, seine-nets, hook-and-line sampling, and spearfishing to capture pikeminnow; (3) anesthetizing any juvenile steelhead captured during electrofishing and seining activities prior to measuring weight and length; (4) returning any captured steelhead to Chorro Creek; and (5) humanely euthanizing and disposing of pikeminnow.

Field activities for the proposed enhancement effort will occur during the summer and fall over five years between August 1, 2016, and December 2020. The annual take Stillwater Sciences is requesting for this effort is as follows: (1) Non-lethal capture and release of up to 1,500 juvenile steelhead while electrofishing, (2) non-lethal capture and release of up to 150 juvenile steelhead while seining, (3) non-lethal capture and release up to 5 juvenile steelhead while hook-and-line fishing, and (4) non-lethal observation of up to 2000 juvenile and 10 adult steelhead during instream snorkel surveys. The potential annual unintentional lethal take resulting from the proposed enhancement activities is up to 33 juvenile steelhead. Overall, no intentional lethal take of steelhead is proposed or expected as a result of these enhancement activities.

The proposed scientific enhancement effort is expected to support steelhead recovery in the Chorro Creek watershed and is consistent with recommendations and objectives outlined in NMFS' South Central California Steelhead Recovery Plan. See the application for Permit 20085 for more details on the scientific enhancement proposal and related methodology.

Dated: July 18, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–17214 Filed 7–20–16; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Order Extending the Designation of the Provider of Legal Entity Identifiers To Be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission's Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has issued an order ("Order") to extend the Commission's designation of the Depository Trust and Clearing Corporation ("DTCC") and Society for

Worldwide Interbank Financial Telecommunication ("SWIFT") joint venture ("DTCC–SWIFT") as the provider of legal entity identifiers, or "LEIs," pursuant to applicable provisions of the Commodity Exchange Act ("CEA") and the Commission's regulations. DTCC–SWIFT's designation was originally made by Commission order issued on July 23, 2012, for a term of two years. The Commission's order of July 23, 2012 was amended on June 7, 2013, an Amended and Restated Order issued on July 22, 2014 to extend DTCC–SWIFT's designation for an additional one year, and an Order was issued on July 17, 2015 to further extend DTCC–SWIFT's designation for an additional one year. This Order supersedes the Commission's Order issued on July 17, 2015 and further extends DTCC–SWIFT's designation for an additional one year while the transition to a fully operational global LEI system continues. This Order permits registered entities and swap counterparties subject to the Commission's jurisdiction to comply with the legal entity identifier requirements of parts 45 and 46 of the Commission's regulations by using identifiers issued by DTCC–SWIFT, or any other pre-Local Operating Unit ("pre-LOU") that has been endorsed by the Regulatory Oversight Committee ("ROC") of the global LEI system as being globally acceptable and as issuing globally acceptable legal entity identifiers.

FOR FURTHER INFORMATION CONTACT: Srinivas Bangarbale, Chief Data Officer, Office of Data and Technology, (202) 418–5315, *sbangarbale@cftc.gov*, or Richard Mo, Attorney Advisor, Division of Market Oversight, (202) 418–7637, *rmo@cftc.gov*, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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II. Further Extension of Designation of the DTCC–SWIFT Utility

III. Order

I. Background

A. Legal Entity Identifiers: CEA Section 21(b) and § 45.6 of the Commission's Regulations

Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")[1] amended the CEA[2] to establish a comprehensive new regulatory framework for swaps. Amendments to the CEA included the addition of provisions requiring the retention, and the reporting to Commission-registered swap data repositories ("SDRs"), of data regarding swap transactions, in order to enhance transparency, promote standardization and reduce systemic risk.[3] Pursuant to these added provisions, the Commission added to its regulations part 45,[4] which sets forth recordkeeping rules, and rules for the reporting of swap transaction data to a registered SDR; and part 46,[5] which sets forth recordkeeping and swap data reporting rules for historical swaps.

Under the authority granted by section 21(b) of the CEA, which, among other things, directs the Commission to prescribe standards that specify the data elements for each swap that shall be collected and maintained by a registered SDR,[6] the Commission, in its part 45 regulations, prescribed the use of a legal entity identifier, or "LEI," in required recordkeeping and swap data reporting. Section 45.6 provides that each counterparty to any swap subject to the jurisdiction of the Commission shall be identified in all recordkeeping and all swap data reporting pursuant to part 45 by means of a single legal entity identifier as specified in that section.[7] In adopting this requirement, the Commission highlighted the LEI as a crucial regulatory tool to facilitate data aggregation by regulators, which furthers, among other goals, the systemic risk mitigation and market manipulation prevention purposes of the Dodd-Frank Act.[8]

Section 45.6 sets forth requirements that the legal entity identifier to be used to comply with the Commission's recordkeeping and swap data reporting rules must meet, including satisfaction of specified technical and governance principles. In adopting these requirements, the Commission took into consideration work that had commenced at the international level to establish a global LEI system.[9] The Commission expressed its agreement that "optimum effectiveness of [the LEI] as a tool for achieving the systemic risk mitigation, transparency and market protection goals of the Dodd-Frank Act—goals shared by financial regulators world-wide—would come from creation of [an LEI] . . . that is capable of becoming the single international standard for unique identification of legal entities across the world financial sector."[10] The Commission cited its involvement in an international initiative, coordinated by the Financial Stability Board ("FSB"),[11] to establish standards, and a governance framework, for a global LEI system—including the Commission's participation in an ad hoc, expert group of regulatory authorities convened by the FSB to develop recommendations regarding the implementation of such a system.[12]

B. Order of July 17, 2015

The Commission's July 23, 2012 order was amended on June 7, 2013, and the Commission issued an Amended and Restated Order on July 22, 2014 to extend its designation of the DTCC–SWIFT utility while the terms of transition to a fully operational global LEI system were finalized and implemented. In the Amended and Restated Order, the Commission aligned the legal entity identifier terminology used therein with the terminology that is currently in use at the international level, and removed certain provisions that, given the current state of implementation of the global LEI system, were no longer applicable. On July 17, 2015 the Commission issued an Order further extending its designation of the DTCC–SWIFT utility for an additional year.

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[1] Pub. L. 111–203, 124 Stat. 1376 (2010).

[2] 7 U.S.C. 1 *et seq.*

[3] *See, e.g.*, the following sections added by the Dodd-Frank Act: Section 2(a)(13)(G) of the CEA, which requires all swaps, whether cleared or uncleared, to be reported to a registered SDR; new Section 21(b) of the CEA, which directs the Commission to prescribe standards for swap data reporting and attendant recordkeeping; and new Sections 4r and 2(h)(5) of the CEA, which, among other things, establish reporting requirements for swaps in effect as of the enactment of the Dodd-Frank Act ("pre-enactment swaps"), as well as swaps in effect after such enactment but prior to the effective date for compliance with the Commission's final recordkeeping and swap data reporting rules ("transition swaps" and, collectively with pre-enactments swaps, "historical swaps").

[4] Swap Data Recordkeeping and Reporting Requirements, 77 FR 2136 (January 13, 2012).

[5] Swap Data Recordkeeping and Reporting Requirements: Pre-Enactment and Transition Swaps, 77 FR 35200 (June 12, 2012).

[6] CEA Section 21(b).

[7] 77 FR at 2204. In addition, in part 46 of the Commission's regulations, § 46.4 provides that each counterparty to a historical swap in existence on or after April 25, 2011, for which an initial data report is required pursuant to part 46, must obtain a legal entity identifier, which must be used for purposes of recordkeeping and swap data reporting under part 46 as prescribed in § 46.4. 77 FR at 35228–9.

[8] *See* 77 FR at 2138.

[9] *See* 77 FR at 2163.

[10] *Id.*

[11] The FSB is an international body that develops and promotes the implementation of effective regulatory, supervisory and other policies in the interest of financial stability. Established in 2009 as a successor to the Financial Stability Forum, the FSB coordinates the work of national financial authorities, international standards setting bodies and international financial institutions. Its membership includes G–20 members, the International Monetary Fund and the World Bank. The FSB Secretariat is located in Basel, Switzerland. The FSB's Web site can be accessed at *http://www.financialstabilityboard.org*.

[12] *See* 77 FR at 2162.

In the preamble to the Amended and Restated Order, the Commission noted that the process to establish the global LEI system continued to move forward since the issuance of the Amendment on June 7, 2013, noting various implementation milestones,[13] and that while progress towards the establishment of the global LEI system continued, the system would not be fully operational before the expiration of DTCC–SWIFT's two-year term of designation under the July 23, 2012 Order. The Commission believed it was appropriate, in order to further the smooth transition to a fully operational global LEI system, to extend its designation of the DTCC–SWIFT utility, given the significant progress made in establishing the global LEI system—including the ROC's endorsement of the DTCC–SWIFT utility as a globally acceptable pre-LOU.

II. Further Extension of Designation of the DTCC–SWIFT Utility

Progress towards the establishment of the global LEI system continues. The Global LEI Foundation ("GLEIF") is incorporated and has finalized the Master Agreement with pre-LOUs, including DTCC–SWIFT's Global Markets Entity Identifier ("GMEI") utility. The ROC continues, within its authority, to facilitate that process. The finalization of the Master Agreement was the result of a deliberative process that included several multi-party discussions.[14] As pre-LOUs sign the Master Agreement and go through the process to become accredited, they will become LOUs and will be under the direct operational oversight of the GLEIF, which in turn will be under the oversight of the ROC. While it is expected that DTCC–SWIFT will be accredited in the near term, given the international and deliberative nature of the process, the Commission finds it appropriate to provide sufficient time for the process to conclude successfully and smoothly.

Accordingly, the Commission is issuing this Order, to further extend the Commission's designation of the DTCC–SWIFT utility while the transition to a fully operational global LEI system is implemented. The Commission is not otherwise modifying the terms or conditions found in the Amended and Restated Order.

III. Order

It is ordered, pursuant to Section 21(b) of the CEA and § 45.6 of the Commission's regulations *that:*

1. Subject to the conditions and terms below, the Depository Trust and Clearing Corporation ("DTCC") and Society for Worldwide Interbank Financial Telecommunications ("SWIFT") joint venture ("DTCC–SWIFT") is designated as the provider of legal entity identifiers ("LEIs"), to be used in recordkeeping and swap data reporting pursuant to parts 45 and 46 of the Commission's regulations.

a. This designation is conditioned on DTCC–SWIFT's continuing compliance, for as long as it is authorized to provide LEIs by this order or any future order of the Commission, with all of the legal entity identifier requirements of part 45 of the Commission's regulations, and any related requirements as set forth in this order or in the requirements document provided to DTCC–SWIFT during the determination and designation process; including, without limitation, the requirement to be subject to supervision by a governance structure that includes the Commission and other financial regulators in any jurisdiction requiring use of legal entity identifiers pursuant to applicable law, for the purpose of ensuring that issuance and maintenance of LEIs and of associated reference data adheres on an ongoing basis to the Commission's requirements set forth in part 45.

b. This designation is further conditioned on the requirement that, subject to applicable confidentiality laws and other applicable law, (1) DTCC–SWIFT shall make public all LEIs and associated reference data, utility operations, and identity validation processes, and (2) if DTCC–SWIFT fails to satisfy the conditions of this designation, or upon any termination of this designation pursuant to Section 2(c)(2) below, DTCC–SWIFT shall, as instructed by the Commission, pass to a successor LEI utility specified by the Commission, or to the global LEI system, free of charge, all LEIs issued by DTCC–SWIFT and associated reference data and all LEI intellectual property rights.

c. This designation is made for a limited term, expiring on July 24, 2017 and may be terminated by the Commission on three months' notice in connection with (1) the establishment of the global LEI system, or (2) DTCC–SWIFT's exit from the global LEI system.

2. To comply with the legal entity identifier requirements of parts 45 and 46 of the Commission's regulations:

a. Registered entities and swap counterparties subject to the Commission's jurisdiction may use LEIs provided by DTCC–SWIFT, any other pre-Local Operating Unit ("pre-LOU") endorsed by the Regulatory Oversight Committee of the global LEI system ("ROC") as globally acceptable and as issuing globally acceptable LEIs, or any Local Operating Unit ("LOU") accredited by the Global LEI Foundation ("GLEIF"). The list of pre-LOUs that are currently approved by the ROC as globally acceptable and that are issuing globally acceptable LEIs, including the Web site address via which registered entities and swap counterparties may contact each such pre-LOU, is available at *http://www.leiroc.org/publications/gls/lou_20131003_2.pdf.* The list of accredited LOUs can be found on the GLEIF Web site at *http://www.gleif.org.*

b. As provided in § 45.6(b)(1) of the Commission's regulations, registered entities and swap counterparties subject to the Commission's jurisdiction shall be identified in all swap recordkeeping and swap data reporting by a single LEI.

3. This Order supersedes the Commission's Order issued on July 17, 2015.

Issued in Washington, DC, on July 18, 2016, by the Commission.

Robert N. Sidman,

Deputy Secretary of the Commission.

Appendix to Order Extending the Designation of the Provider of Legal Entity Identifiers To Be Used in Recordkeeping and Swap Data Reporting Pursuant to the Commission's Regulations—Commission Voting Summary

On this matter, Chairman Massad and Commissioners Bowen and Giancarlo voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2016–17229 Filed 7–20–16; 8:45 am]

BILLING CODE 6351–01–P

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[13] In the second half of 2013, the ROC adopted endorsement standards for pre-LOUs and the identifiers issued by them, and endorsed sixteen member-sponsored pre-LOUs—including DTCC–SWIFT—as globally acceptable. The Global LEI Foundation that will provide the Central Operating Unit ("COU"), managing the central operations of the global LEI system, was formally established under Swiss law. The ROC and the Global LEI Foundation are developing a framework for the transition of full operational management of the global LEI system to the COU, with supervisory oversight by the ROC in the public interest.

[14] In its 2015 Annual Report, the GLEIF reported certain milestones regarding the implementation of the Master Agreement, including the arrival of an agreed framework for business operations between the GLEIF and the LOUs. *See* GLEIF 2015 Annual Report, available at *https://www.gleif.org/content/1-about/5-governance/10-annual-report/2016-05-03_gleif_2015_annual_report_final.pdf.*

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Revised Collection, Comment Request: Amendments To Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, Final Rule

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission ("Commission" or "CFTC") is announcing an opportunity for public comment on the proposed amendment to an existing collection of certain information by the agency. Under the Paperwork Reduction Act ("PRA"), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including any renewal or revision of such collection, and to allow 60 days for public comment. The Commission recently adopted a final rule regarding the reporting of cleared swap transactions (the "Cleared Swap Reporting Release"), which will require entities reporting swaps to report certain additional data elements. This Cleared Swap Reporting Release will also require registered derivatives clearing organizations ("DCOs") to terminate "original swaps" (as defined in that final rule), which may require DCOs to connect to multiple registered swap data repositories ("SDRs"). This notice solicits comments on the proposed revisions to existing PRA collections implicated by the requirements of the Cleared Swap Reporting Release.

DATES: Comments must be submitted on or before September 19, 2016.

ADDRESSES: You may submit comments, regarding the burden estimated or any other aspect of the information collection, including suggestions for reducing the burden. Please refer to "Cleared Swap Reporting Release" in any correspondence. Comments, identified by "OMB Collection Number 3038–0096," may be submitted by any of the following methods:

- The Agency's Web site, at *http://comments.cftc.gov/*. Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov.*

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

FOR FURTHER INFORMATION CONTACT: Andrew Ridenour, Special Counsel, (202) 418–5438, *aridenour@cftc.gov,* or Owen Kopon, Attorney-Advisor, (202) 418–5360, *okopon@cftc.gov,* Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget ("OMB") for each collection of information they conduct or sponsor. "Collection of Information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. To comply with this requirement, the CFTC is publishing the notice of the proposed collection of information listed below.

1. Background

a. Statutory and Regulatory History

To enhance transparency, promote standardization, and reduce systemic risk, section 727 of the Dodd-Frank Act[2] added to the Commodity Exchange Act ("CEA") section 2(a)(13)(G),[3] which requires all swaps, whether cleared or uncleared, to be reported to SDRs.[4] SDRs are registered entities created by section 728 of the Dodd-Frank Act to collect and maintain data related to swap transactions as prescribed by the Commission, and to make such data available to the Commission and other regulators. Section 21(b) of the CEA,[5] added by section 728 of the Dodd-Frank Act, directs the Commission to prescribe standards for swap data recordkeeping and reporting, which are to apply to both registered entities and counterparties involved with swaps,[6] and which are to be comparable to standards for clearing organizations in connection with their clearing of swaps.[7]

On December 20, 2011, the Commission adopted part 45 of the Commission's regulations ("Final Part 45 Rulemaking").[8] Part 45 implements the requirements of section 21 of the CEA by setting forth the manner and content of reporting to SDRs, and requires electronic reporting both when a swap is initially executed, referred to as "creation" data,[9] and over the course of the swap's existence, referred to as "continuation" data.[10] Additionally, part 45 sets forth varying reporting timeframes depending on the type of reporting, counterparty, execution, or product.[11]

As part of the Commission's ongoing efforts to improve swap transaction data quality and to improve the Commission's ability to utilize the data for regulatory purposes, Commission staff has continued to evaluate issues in connection with reporting under part

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[1] 17 CFR 145.9.

[2] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm.*

[3] 7 U.S.C. 2(a)(13)(G).

[4] *See also* 7 U.S.C. 1a(40)(E), 1a(48).

[5] 7 U.S.C. 24a(b).

[6] 7 U.S.C. 24a(b)(1)(A).

[7] 7 U.S.C. 24a(b)(3).

[8] *See* Swap Data Recordkeeping and Reporting Requirements, Final Rule, 77 FR 2136 (Jan. 13, 2012).

[9] *See* 17 CFR 45.1 (defining "required swap creation data" as all primary economic terms data for a swap in the swap asset class in question, and all confirmation data for the swap.). "Primary economic terms data" is defined as all of the data elements necessary to fully report all of the primary economic terms of a swap in the swap asset class of the swap in question, while "confirmation data" is defined as all of the terms of a swap matched and agreed upon by the counterparties in confirming the swap. *Id.* For cleared swaps, confirmation data also includes the internal identifiers assigned by the automated systems of the DCO to the two transactions resulting from novation to the clearing house. *Id. See also* 17 CFR 45.3.

[10] *See* 17 CFR 45.1 (defining "required swap continuation data" as all of the data elements that must be reported during the existence of a swap to ensure that all data concerning the swap in the swap data repository remains current and accurate, and includes all changes to the primary economic terms of the swap occurring during the existence of the swap"). *See also* 17 CFR 45.4.

[11] *See* 17 CFR 45.3(a), 45.3(b), 45.3(c), and 45.3(d).

45, including those related to cleared swaps in particular. To this end, the Commission published a request for comment on a variety of swap data reporting and recordkeeping provisions to help determine how such provisions were being applied, and to determine whether or what clarifications or enhancements to these provisions may be appropriate (the "IDWG Request for Comment").[12] One of the subjects of the IDWG Request for Comment was the reporting of cleared swaps, and, in particular, the manner in which the swap data reporting rules should address cleared swaps.[13] After considering the comments submitted in response to the IDWG Request for Comment relating to the reporting of cleared swaps,[14] the Commission issued a Notice of Proposed Rulemaking (the "NPRM") in which it proposed changes to part 45 as they relate to the reporting of cleared swaps transactions.[15] In response to the NPRM, the Commission received 17 comments letters addressing its proposed revisions to part 45.[16]

On June 27, 2016, the Commission adopted the Cleared Swap Reporting Release,[17] which amended certain provisions of existing part 45 as they relate to the reporting of cleared swap transactions. In the Cleared Swap Reporting Release, the Commission noted that the changes being adopted would require some revisions to the existing information collection covering obligations on reporting entities and SDRs found in part 45.[18]

b. Existing PRA Collection Relating to Part 45 Reporting

The OMB control number for the information collection associated with part 45 swaps reporting is 3038–0096. The Commission proposes to amend existing collection 3038–0096 to account for adjustments to reporting entities' swaps data reporting systems necessitated by the Cleared Swap Reporting Release. Information collection 3038–0096 [19] includes an estimate of burden hours and costs associated with various requirements of part 45 swaps reporting and recordkeeping,[20] including the reporting of creation data under § 45.3 and continuation data under § 45.4,[21] the maintenance of an internal order management system ("OMS"), and personnel needed to maintain a compliance program in support of an OMS system.

As a result of changes to §§ 45.3 and 45.4 and to the PET fields identified in appendix A to part 45 in the Cleared Swap Reporting Release, the Commission proposes to revise collection 3038–0096. The proposed revision to the collection will add an estimate for the burden associated (a) with changing reporting systems to comply with changes to the required data to be reported under § 45.3 and § 45.4, and (b) with requirements that DCOs potentially connect to all registered SDRs. In response to the NPRM,[22] the Commission received several comments on the costs associated with part 45 swaps reporting that could implicate PRA burdens, summarized below.

2. PRA Burden and Benefits Associated With Cleared Swap Reporting Release [23]

a. Additional and Amended PET fields

Regarding the addition of PET fields applicable to all swaps, ISDA commented that the PET field for "clearing exception or exemption type" would be "very challenging and costly" to implement.[24] However, neither ISDA nor any other commenter provided information quantifying the cost to update reporting systems to account for the modified and additional PET fields. As discussed more extensively in Section III.C.9 of the NPRM,[25] the information required to be reported in the modified "clearing exception or exemption type" is also already in the possession of the reporting entity; changes to reporting systems required to report this field would involve adding a known piece of information to the message reported to an SDR.

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[12] *See* Review of Swap Data Recordkeeping and Reporting Requirements, Request for Comment, 79 FR 16689 (Mar. 26, 2014). The IDWG Request for Comment was referred to simply as the "Request for Comment" in the NPRM.

[13] 79 FR 16689, 16694.

[14] The comment file for responses to the IDWG Request for Comment is available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1484.* Commenters responding to the IDWG Request for Comment included: The American Gas Association, May 27, 2014; American Petroleum Institute, May 27, 2014; Americans for Financial Reform, May 27, 2014 ("AFR"); Australian Bankers' Association, May 27, 2014 ("ABA"); Better Markets, Inc., May 27, 2014, ("Better Markets"); B&F Capital Markets, Inc., May 27, 2014; CME Group, May 27, 2014 ("CME"); Coalition for Derivatives End-Users, May 27, 2014 ("CDEU"); Coalition of Physical Energy Companies, May 27, 2014; Commercial Energy Working Group, May 27, 2014 ("CEWG"); Commodity Markets Council, May 27, 2014 ("CMC"); The Depository Trust & Clearing Corporation, May 27, 2014 ("DTCC"); EDF Trading North America, LLC, May 27, 2014; Edison Electric Institute, May 27, 2014 ("EEI"); Financial InterGroup Holdings Ltd, May 27, 2014; Financial Services Roundtable ("FSR"), May 27, 2014; Fix Trading Community, May 27, 2014; The Global Foreign Exchange Division of the Global Financial Markets Association, May 27, 2014 ("GFMA"); HSBC, May 27, 2014; Interactive Data Corporation, May 27, 2014; ICE Trade Vault, LLC, May 27, 2014 ("ITV"); International Energy Credit Association, May 27, 2014; International Swaps and Derivatives Association, Inc., May 23, 2014 ("ISDA"); Japanese Bankers Association, May 27, 2014 ("JBA"); Just Energy Group Inc., May 27, 2014; LCH.Clearnet Group Limited, May 29, 2014 ("LCH"); Managed Funds Association, May 27, 2014 ("MFA"); Markit, May 27, 2014; Natural Gas Supply Association, May 27, 2014 ("NGSA"); NFP Electric Associations (National Rural Electric Cooperative Association, American Public Power Association, and Large Public Power Council), May 27, 2014 ("NFPEA"); OTC Clearing Hong Kong Limited, May 27, 2014 ("OTC Hong Kong"); Securities Industry and Financial Markets Association Asset Management Group, May 27, 2014 ("SIFMA"); SWIFT, May 27, 2014; Swiss Re, May 27, 2014; Thomson Reuters (SEF) LLC, May 27, 2014 ("TR SEF"); and TriOptima, May 27, 2014. Discussions of comments on reporting of cleared swaps received in response to the IDWG Request for Comment are included in the preamble to the NPRM.

[15] *See* Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, Notice of Proposed Rulemaking, 80 FR 52544 (Aug. 31, 2015).

[16] The comment file for responses to the NPRM is available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1614.* Commenters to the NPRM included: Better Markets, October 30, 2015; CME, October 30, 2015; COPE, October 30, 2015; CEWG, October 30, 2015; CMC, October 30, 2015; DTCC, October 30, 2015; EEI/EPSA, October 30, 2015; Eurex Clearing AG ("Eurex"); FSR, October 30, 2015; ITV, October 30, 2015; ISDA, October 30, 2015; JBA, October 30, 2015; LCH, October 30, 2015; MFA and Alternative Investment Management Association ("AIMA"), October 30, 2015; Markit, October 30, 2015; and North American Derivatives Exchange, Inc., October 30, 2015 ("Nadex").

[17] *See* Amendments to Swap Data Recordkeeping and Reporting Requirements for Cleared Swaps, Final Rule, 81 FR 41736 (June 27, 2016).

[18] *See* Cleared Swap Reporting Release, 81 FR, at 41758.

[19] The Commission issued a notice of intent to renew information collection 3038–0096 on August 7, 2015. *See* Notice of Intent to Renew Collection 3038–0096, 80 FR 47477 (Aug. 7, 2015). The Commission received no comments on this notice of intent to renew. The comment file is available at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1608.* The Office of Management and Budget approved without change the renewal of this information collection on December 21, 2015.

[20] Supporting documentation for the renewal of information collection 3038–0096 is available at *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201508-3038-002.*

[21] "Creation data" under § 45.3 includes all primary economic terms ("PET") data fields listed in appendix 1 to part 45, as well as all "confirmation data," which includes all terms of the swap matched and agreed upon by the parties. "Continuation data" reporting under § 45.4 requires a reporting entity to ensure that all data on a swap is kept current and accurate, including any changes to primary economic terms.

[22] *See* NPRM, 80 FR 52544 (Aug. 31, 2015).

[23] While not connected to the Cleared Swap Reporting Release, the Commission also proposes to reduce the number of SDRs in collection 3038–0096 from 15 to 4. When submitting the original OMB information collection for part 45 reporting, the Commission had assumed that up to 15 entities would register as SDRs. Currently, there are four SDRs provisionally registered with the Commission. Three other entities had submitted SDR applications. Two withdrew applications in 2012 and 2014. One (GTR) withdrew its application and resubmitted under the corporate entity DTCC Data Repository (US) LLC, which currently operates as a provisionally registered SDR. As the Commission has not received any SDR applications since 2012, the Commission believes that four is a reasonable number of SDRs for calculating PRA burdens.

[24] ISDA Oct. 30, 2015 Letter, at 9.

[25] *See* Cleared Swap Reporting Release, 81 FR, at 41767.

Regarding new PET fields for clearing swaps, Eurex commented that DCOs would need to collect data from the original swap counterparties or trading venue to be able to report these fields.[26] However, as the Commission noted in the Cleared Swap Reporting Release, the information required to report these PET fields is either generated by the DCO itself (such as clearing swap unique swap identifier ("USI"), clearing member LEI, clearing member internal identifier, house/customer account flag, and receipt and clearing timestamps) or should be included in the clearing member's submission of a swap to the DCO for clearing (such as the original swap USI and original swap SDR).

While the Commission believes that reporting entities already possess information required to report the added and amended PET fields, the Commission proposes to amend collection 3038–0096 to account for changes that reporting entities must make to their reporting systems to comply with these new and amended fields. The Commission estimates that each reporting entity—including DCOs, swap execution facilities ("SEFs"), designated contract markets ("DCMs"), swap dealers ("SDs"), major swap participants ("MSPs"), and non-SD/MSPs with reporting obligations—would incur a burden of 200 hours to bring reporting systems in compliance with the added and amendment PET fields. The Commission also believes that SDRs would incur a burden of 200 hours to update their swap data acceptance systems to account for the added and amended PET fields. However, the Commission also anticipates that reporting entities and SDRs will need to make periodic changes to reporting systems to account for future changes to reporting obligations under part 45 and changes to reporting brought about by the evolution of products offered in the swaps market. Therefore, the Commission proposes revising collection 3038–0096 to include a recurring burden of 200 hours to cover such periodic changes. The recurring 200 burden hours would cover changes to PET fields under the Cleared Swap Reporting Release and any future changes described above. The Commission does not believe that reporting entities or SDRs would need to incur additional costs aside from these burden hours to bring reporting systems into compliance.

b. DCO Termination of Original Swaps

Regarding the requirement that DCOs terminate original swaps once the DCO has accepted them for clearing, some commenters raised concerns that requiring DCOs to report continuation data for original swaps to the SDR to which the original swap was reported could increase costs for DCOs as they may need to connect to SDRs to which they do not currently have a connection.[27] The Commission understands that DCOs already may report terminations to the original SDR, and to the extent these reporting systems are already implemented the new rules will not introduce additional costs for these DCOs. However, the Commission recognizes that requiring DCOs to potentially connect to more than one SDR in order to report continuation data for original swaps may require an update to the existing information collection 3038–0096.

In response to the NPRM, the Commission received three comments concerning the costs and benefits of the proposed amendments to § 45.4 in two different contexts. LCH and Eurex expressed concerns with the infrastructure required to have the DCO connected to every SDR chosen by the SD/MSP for which the DCO clears and report terminations according to the technical requirements of each SDR.[28] Eurex specifically indicated that the cost of implementing the required infrastructure would have significant time and financial costs. In commenting on the IDWG Request for Comment, one foreign central counterparty now acting pursuant to a DCO Exemptive Order cited a specific cost for connecting to a new SDR as involving at least 150 working days.[29] Assuming an 8-hour work day, this would be the equivalent of 1,200 hours for a connection to an SDR.

The Commission estimates the cost and hours burden associated with connecting DCOs to all SDRs according to the OTC Hong Kong comment letter. Considering that there are only four registered SDRs, each DCO could at most be required to connect to four SDRs. However, the number of connections likely would be less than four as not every DCO clears swaps for every asset class, and not every SDR accepts data for every asset class. Further, the number of connections could be limited to the extent that the DCO clears swaps for clearing members that choose to report original swaps to a limited number of SDRs. Additionally, the Commission assumes economies of scale when DCOs connect to more than one SDR. While connections to different SDRs could present different technological challenges, the DCO would be able to use the same programmers, analysts, and other personnel when implementing connections to all required SDRs. Therefore, the Commission estimates a one-time hours burden of 3,000 hours per DCO to comply with the Cleared Swap Reporting Release, beyond the existing burden in collection 3038–0096.

The Commission also intends to amend collection 3038–0096 to include recurring costs for DCOs associated with SDR connections. Existing collection 3038–0070 (relating to real-time reporting) estimates an annual cost of $100,000 to maintain an SDR connection for SEFs, DCMs, SDs, MSPs, and non-SD/MSP reporting entities, but does not specifically cover DCOs. The Commission proposes to include the same recurring SDR connectivity burdens for DCOs within collection 3038–0096, scaled to account for connections to multiple SDRs and resulting economies of scale. The Commission estimates that DCOs would incur annual costs of $250,000 to maintain connections to multiple SDRs, to allow the DCO to terminate all original swaps accepted for clearing.

3. Burden Statement

The Commission estimates the average increase in the burden of this collection of information as follows:

Additional and amended PET fields:

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[26] *See* Eurex Oct. 30, 2015 Letter, at 5.

[27] *See e.g.,* Eurex Oct. 30, 2015 Letter, at 5, 9; LedgerX Oct. 30, 2015 Letter, at 2; LCH Oct. 30, 2015 Letter, at 3. The Commission notes that another commenter stated that "DCOs have already made connections with the major CFTC-registered SDRs." (DTCC Oct. 30, 2015, Letter at 5).

[28] *See* Eurex Oct. 30, 2015 Letter, at 4–5; LCH Oct. 30, 2015 Letter, at 3.

[29] *See* OTC Hong Kong May 27, 2014 Letter, at 2–3 (contending that setup, application development, and testing to interface with each SDR is likely to require at least 150 man-days, and that a more cost-effective framework would be to require the original counterparty to report termination of the alpha once it receives confirmation that the alpha has been accepted for clearing, and that the original counterparty would already have in place technical and operational interfaces with the SDR of its choice. The commenter also contended that the burden on DCOs of additional reporting outweighs the benefits to the CFTC).

Affected entities	SDRs, SEFs, DCMs, DCOs, SD/MSPs, non-SD/MSP reporting entities		
Burden type	Burden per respondent	Number of respondents	Total burden
One-time hours burden	0 hours	449	0 hours.
One-time costs	$0	449	$0.
Recurring hours burden	200 hours	449	89,900 hours.
Recurring costs	$0	449	$0.

Termination of original swaps:

Affected entities	DCOs		
Burden type	Burden per respondent	Number of respondents	Total burden
One-time hours burden	3,000 hours	12	36,000 hours.
One-time costs	$0	12	$0.
Recurring hours burden	0 hours	12	0 hours.
Recurring costs	$250,000	12	$3,000,000.

4. Request for Comment

The NPRM on cleared swap reporting requested comments on the burden associated with the added and amended PET fields, and on DCOs reporting original swap terminations.[30] Those comments may be found on the Commission's Web site, *http://www.cftc.gov*, at *http://comments.cftc.gov/PublicComments/CommentList.aspx?id=1614*. All comments received in response to the NPRM will be considered, along with the comments received in response to this notice, in determining the Commission's submission to OMB regarding revisions to existing information collections to account for changes adopted in the Cleared Swap Reporting Release.

The Commission invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Specifically, the Commission invites comments on the following questions:

1. The Commission has proposed including a 200 hour recurring burden in the collection to account for periodic changes to reporting systems brought about by changes to PET terms (such as those under the Cleared Swap Reporting Release) as well as other periodic changes. Does this estimate accurately estimate the burden associated with the periodic updating of reporting systems to ensure continued compliance with part 45 reporting obligations?
2. Given that not every DCO clears swaps in every asset class, and that not every SDR accepts data for every asset class, to how many SDRs must DCOs typically connect to properly report original swap terminations?
3. Can DCOs take advantage of economies of scale in terms of personnel and/or equipment when connecting to more than one SDR?
4. Given that original swap termination messages under revised § 45.4 would need to be submitted daily—not, as with creation data, as soon as technologically practicable—are DCOs able to submit original swap terminations through methods less expensive than full connections to SDRs that are used for reporting creation data and real-time reporting? If so, what are the costs associated with such connections?
5. In the Cleared Swap Reporting Release, the Commission encouraged DCOs and SDRs to standardize original swap termination messages. Are DCOs and SDRs working towards such a standardized message? What cost savings could be associated with such standardized messages?
6. Would a standardized termination message allow DCOs to use connection methods less expensive than full connections to SDRs that are used for reporting creation data and real-time reporting?
7. As noted in footnote 23, the Commission is proposing to reduce the number of SDRs used for PRA burden calculations from 15 to four. Would this change accurately reflect the current state of the data reporting industry?
8. The Commission received comments on the hours burden associated with establishing a DCO connection to an SDR, but not a cost estimate. Do the proposed revisions to the PRA, which include an hours burden for establishing a connection, and a cost burden for maintaining a connection, accurately reflect the PRA burden on DCOs?

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: July 15, 2016.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2016–17208 Filed 7–20–16; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2009–0073]

Agency Information Collection Activities; Submission for OMB Review; Comment Request—Virginia Graeme Baker Pool and Spa Safety Act; Compliance Form

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act ("PRA") of 1995 (44

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[30] *See* 77 FR 25320 at 25328.

U.S.C. chapter 35), the Consumer Product Safety Commission (''Commission'' or ''CPSC'') announces that the Commission has submitted to the Office of Management and Budget (''OMB'') a request for extension of approval of a collection of information regarding a form used to verify whether pools and spas are in compliance with the Virginia Graeme Baker Pool and Spa Safety Act. In the **Federal Register** of April 25, 2016 (81 FR 24068), the CPSC published a notice to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of that collection of information, without change.

DATES: Written comments on this request for extension of approval of information collection requirements should be submitted by August 22, 2016.

ADDRESSES: Submit comments about this request by email: *OIRA_submission@omb.eop.gov* or fax: 202–395–6881. Comments by mail should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the CPSC, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503. In addition, written comments that are sent to OMB also should be submitted electronically at *http://www.regulations.gov*, under Docket No. CPSC–2009–0073.

FOR FURTHER INFORMATION CONTACT: For further information contact: Robert H. Squibb, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7815, or by email to: *rsquibb@cpsc.gov*.

SUPPLEMENTARY INFORMATION: CPSC has submitted the following currently approved collection of information to OMB for extension:

Title: Virginia Graeme Baker Pool and Spa Safety Act Verification of Compliance Form.

OMB Number: 3041–0142.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Public pools and spa facilities.

Estimated Number of Respondents: 200 pools or facilities.

Estimated Time per Response: 3 hours to inspect a pool or spa facility.

Total Estimated Annual Burden: The total testing burden hours are 600 (200 inspections × 3 hours per inspection).

General Description of Collection: On December 19, 2008, the Virginia Graeme Baker Pool and Spa Safety Act (''Act'') became effective (Pub. L. 110–140). The Act applies to public pools and spas and requires that each swimming pool and spa drain cover manufactured, distributed, or entered into commerce in the United States shall conform to the entrapment protection standards of the ASME/ANSI A112.19.8 performance standard or any successor standard regulating such swimming pool or drain cover pursuant to section 1404(b) of the Act.

On August 5, 2011, the Commission published a final rule incorporating by reference ANSI/APSP–16 2011 as the successor standard, effective September 6, 2011. 76 FR 47436. The Act requires that, in addition to having the anti-entrapment devices or systems, each public pool and spa in the United States with a single main drain other than an unblockable drain shall be equipped with one or more of the following devices or systems designed to prevent entrapment by pool or spa drains including a safety vacuum release system, suction-limiting vent system, gravity drainage system, automatic pump shut-off system or drain disablement. CPSC will collect information through the verification of compliance form to identify drain covers, pools, and spas that do not meet the performance requirements in ANSI/APSP–16 2011 and the Act.

Dated: July 18, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2016–17215 Filed 7–20–16; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities and Technical Assistance on State Data Collection—National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

Overview Information:

Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities and Technical Assistance on State Data Collection—National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments.

Notice inviting applications for a new award for fiscal year (FY) 2016.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.326G.

DATES: *Applications Available:* July 21, 2016.

Deadline for Transmittal of Applications: August 22, 2016.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research. The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet the Individuals with Disabilities Education Act (IDEA) data collection and reporting requirements.

Priorities: This notice contains two absolute priorities. In accordance with 34 CFR 75.105(b)(2)(v), Absolute Priority 1 is from allowable activities specified or otherwise authorized in the Individuals with Disabilities Education Act (IDEA) (see sections 663 and 681(d) of the IDEA, 20 U.S.C. 1463 and 1481(d)). Absolute Priority 2 is from the notice of final priorities and requirements for the Technical Assistance on State Data Collection program (NFP) published elsewhere in this issue of the **Federal Register**.

Absolute Priorities: These priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet these priorities.

These priorities are:

Absolute Priority 1—Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments.

Background:

The purpose of this priority is to fund a cooperative agreement to establish and operate a National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments (Center).

Section 612(a)(16) of the IDEA requires that all students with disabilities are included in all general State and districtwide assessments, including assessments described under section 1111 of the Elementary and Secondary Education Act of 1965 (ESEA), with appropriate accommodations and alternate assessments where necessary and as indicated in their respective individualized education programs. In accordance with Federal law, there are multiple ways for students with disabilities to participate in State and districtwide assessments: General assessments, general assessments with accommodations, and alternate assessments that are based on alternate academic achievement standards for students with the most significant cognitive disabilities.

Further, research shows that (1) instruction for students with disabilities is increasingly aligned with State academic content standards, (2) State and districtwide assessment data are more frequently used to make educational decisions for these students, and (3) participating in State and districtwide assessments and being included in accountability systems may have positive effects on educational results for students with disabilities (Aron & Loprest, 2012; Courtade, Spooner, & Browder, 2012; Kurz, Elliott, Lemons, Zigmond, Kloo, & Kettler, 2014). However, teachers cannot simply wait until the results of State and districtwide assessments become available to make educational decisions. In addition to analyzing results from State (typically summative) assessments, formative assessments are increasingly being used before, during, and after instruction to help teachers understand their students' learning and improve their own instructional practices (Conderman & Hedin, 2012).

Despite the progress State educational agencies (SEAs) and local educational agencies (LEAs) have made in including students with disabilities in assessments and accountability systems, SEAs and LEAs continue to face challenges, such as integrating data from dissimilar tests (*e.g.,* general, accommodated, and alternate) into a single accountability system, developing consistent SEA and LEA policies on assessment accommodations that provide maximum accessibility while maintaining test reliability and validity, and analyzing and using formative and summative assessment data to improve instruction and accountability for students with disabilities.

Furthermore, one of the most complex challenges faced by SEAs and LEAs is developing and administering English language proficiency (ELP) assessments to students who are both English Learners (ELs) and students with disabilities (U.S. Department of Education, 2014). Properly identifying these students is also a significant challenge if their disabilities are masked by their limited English proficiency, or vice versa. Improper identification may lead to inappropriate instruction, assessment, and accommodation for these students. Linguistic and cultural biases may also affect the validity of assessment for ELs with disabilities (Lane & Leventhal, 2015).

Finally, the U.S. Department of Education (Department) notes that in many schools, there may be unnecessary testing and insufficient clarity of purpose applied to the task of assessing students, including students with disabilities, consuming too much instructional time and creating undue stress for educators and students. (For more information, see the Department's February 2, 2016, letter to Chief State School Officers available at: *www2.ed.gov/admins/lead/account/saa/16-0002signedcsso222016ltr.pdf.*)

These and other complex challenges will continue to arise in this dynamic landscape as States adopt college- and career-ready academic content standards and develop new, valid, more instructionally useful and inclusive assessments aligned to these standards. Developing these new assessments has been and will continue to be challenging and time-consuming, and States and LEAs need support in identifying and implementing effective practices for including children with disabilities in State and districtwide assessments. Moreover, methods for analyzing and effectively using State and districtwide assessment data to improve instruction and accountability for students with disabilities will continue to need further development and refinement. In this regard, the Department notes that SEA personnel also need assistance in analyzing and using assessment data to better achieve the State Identifiable Measurable Result(s) (SIMR), which were described in their IDEA Part B State Systemic Improvement Plans (SSIPs) that were developed in accordance with section 616(b) of IDEA and the Office of Special Education Programs (OSEP) guidance on Indicator B–17 of the Federal Fiscal Year (FFY) 2013 through FFY 2018 IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR).[1] In addition, SEA personnel need assistance to provide TA to LEAs to analyze and use State and districtwide assessment data to improve instruction of students with disabilities to better achieve the SIMR.

Priority:

The purpose of this priority is to fund a cooperative agreement to support the establishment and operation of a National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments (Center) to address national, State, and local assessment issues related to students with disabilities. The Center must achieve, at a minimum, the following expected outcomes to ensure the inclusion of students with disabilities in State and districtwide assessments and accountability systems:

Knowledge Development Outcomes

(a) Increased body of knowledge to collect, analyze, synthesize, and disseminate relevant information regarding State and districtwide assessment of students with disabilities on topics such as:

(1) The inclusion of students with disabilities in accountability systems;

(2) Assessment accommodations;

(3) Alternate assessments;

(4) Universal design of assessments;

(5) Technology-based assessments;

(6) Formative assessments;

(7) Competency-based assessments;

(8) Methods for analyzing and reporting assessment data;

(9) Application of growth models in assessment programs;

(10) Uses of formative and summative assessment data to inform instructional programs for students with disabilities; and

(11) Assessing ELs with disabilities, including ensuring that all ELs with

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[1] In accordance with section 616(b) of the IDEA, States must have in place a performance plan that evaluates the State's efforts to implement the requirements and purposes of Part B of the IDEA and describes how the State will improve such implementation. As part of the SPP/APR, each State shall establish measurable and rigorous targets for each indicator established by the Secretary. In the Results Driven Accountability System, OSERS required States under Indicator 17 to develop a State Systemic Improvement Plan (SSIP) as part of their FFY 2013 through FFY 2018 IDEA Part B SPPs/APRs. The SSIP must include: (1) FFY 2013 baseline data expressed as a percentage and aligned with the State-identified Measurable Result(s) (SIMR) for children with disabilities; (2) measurable and rigorous targets (expressed as a percentage) for each of the five years for FFY 2014 through FFY 2018, with the FFY 2018 target reflecting improvement over the FFY 2013 baseline data; and (3) a plan that includes an explanation of how the improvement strategies were selected and will lead to measurable improvement in the SIMR.

disabilities receive appropriate accommodations, as needed, on ELP assessments, and that the results of ELP assessments for students with disabilities are validly used in making accountability determinations under the ESEA.

Note: In order to meet the requirements of paragraph (a), the Center will conduct a comprehensive review of existing research on practices supported by evidence available from a variety of reliable sources, such as findings from research funded by the Institute of Education Sciences (IES), including the National Research and Development Center on Assessment and Accountability for Special Education (NCASSE) and other federally funded and non-federally funded sources.

(b) Increase the capacity of SEA and LEA personnel to assess SEA and LEA needs, and track SEA and LEA activities and trends, related to including students with disabilities in State and districtwide assessments, including, as appropriate, improving the skills of SEA and LEA personnel related to any of the topics listed in paragraph (a) of the *Knowledge Development Outcomes* section of this priority.

Technical Assistance and Dissemination Outcomes

(a) Increased capacity of SEA and LEA personnel, to collect and analyze formative and summative assessment data on the performance of students with disabilities.

(b) Increased capacity of SEA and LEA personnel to use formative and summative assessment data to evaluate and improve educational policies and increase accountability for students with disabilities.

(c) Increased capacity of LEA personnel to use formative and summative assessment results in instructional decision-making to improve teaching and learning for students with disabilities; and

(d) Increased awareness of SEA and LEA personnel, and national policymakers, regarding how students with disabilities are included in and benefit from current and emerging approaches to State and districtwide assessment, including topics listed in paragraph (a) of the *Knowledge Development Outcomes* section of this priority.

In addition to these program requirements, to be considered for funding under this absolute priority, applicants must meet the application and administrative requirements under *Absolute Priority 1 and Absolute Priority 2 Common Requirements.*

Absolute Priority 2— Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s).

Background

The purpose of this priority is to assist States in analyzing and using formative and summative assessment data to support the implementation of the SIMR as described in their SSIP.

As detailed in the background section for Absolute Priority 1, research indicates that SEAs and LEAs continue to face challenges in analyzing and using formative and summative assessment data to improve instruction and accountability for students with disabilities. SEAs also need assistance analyzing State assessment data submitted as part of the SSIP and the SIMR in accordance with section 616 of IDEA and OSEP guidance. Beginning in the FFY 2013 SPP/APR, States must provide, as part of Phase I of the SSIP, a statement of the result(s) the State intends to achieve through implementation of the SSIP, which is referred to as the SIMR for Children with Disabilities. The State must establish ''measurable and rigorous'' targets for each successive year of the SPP (FFYs 2014 through 2018). The end target (for FFY 2018) must demonstrate improvement over the FFY 2013 baseline data. At least 42 States have focused their SIMR on improving academic achievement as measured by assessment results for children with disabilities. These States will need assistance in analyzing and using State assessment data to promote academic achievement and to improve results for children with disabilities.

Priority

The purpose of this priority is to (1) assist States in analyzing and using assessment data to better achieve the SIMR as described in their IDEA Part B SSIPs, and (2) assist State efforts to provide TA to LEAs in analyzing and using State and districtwide assessment data to better achieve the SIMR, as appropriate. The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of SEA personnel to analyze and use assessment data to better achieve the SIMR described in the IDEA Part B SSIP, including using assessment data to evaluate and improve educational policy, inform instructional programs, and improve instruction for students with disabilities; and

(b) Increased capacity of SEA personnel to provide TA to LEAs in the analysis and use of State and districtwide assessment data to improve instruction of students with disabilities and better achieve the SIMR.

Absolute Priority 1 and Absolute Priority 2 Common Requirements:

In addition to the program requirements contained in both absolute priorities, to be considered for funding applicants must meet the following application and administrative requirements.[2]

Applications that:

(a) Demonstrate, in the narrative section of the application under ''Significance of the Project,'' how the proposed project will—

(1) Address the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities. To meet this requirement the applicant must—

(i) Present applicable national, State, and local data demonstrating the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Demonstrate knowledge of current educational issues and policy initiatives related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(iii) Describe the current level of implementation related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities.

(2) Improve the analysis and use of formative and summative assessment data to improve teaching and learning for students with disabilities.

(b) Demonstrate, in the narrative section of the application under ''Quality of the Project Services,'' how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients (*e.g.*, by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

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[2] Paragraph (b)(5)(iv) only applies to Absolute Priority 2.

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: While section 77.1(c) of the Education Department General Administrative Regulations (EDGAR) contains a definition for "logic model," OSEP, based upon its experience in this area, has been using the above definition as standard language for the OSEP Technical Assistance and Dissemination (TA&D) program priorities. OSEP's definition establishes a difference between logic models and conceptual frameworks whereas 34 CFR 77.1(c) considers the model to be one and the same. The following Web sites provide more information on logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.*

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on the effectiveness of analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities; and

(ii) How the proposed project will incorporate current practices supported by evidence in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base on analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Its proposed approach to universal, general TA,[3] which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[4] which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[5] which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA and LEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA and LEA levels;

(C) Its proposed plan for assisting SEAs (and LEAs, in conjunction with SEAs) to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (*e.g.*, SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the collection, analysis, and use of formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(E) Its proposed plan for collaborating and coordinating with Department-funded TA investments and IES research and development investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In designing the evaluation plan, the project must—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),[6]

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[3] "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

[4] "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

[5] "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

[6] The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (*i.e.*, those awarded $500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's budget. CIPP does not function as a third-party evaluator.

the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (*e.g.*, preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and progress toward achieving intended outcomes, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading *Fourth and Fifth Years of the Project;* and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how—

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and a half day project directors' meeting in Washington, DC, during each year of the project period;

(iii) Three trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

References

Aron, L., & Loprest, P. (2012). *Disability and the education system. The Future of Children, 22*(1), 97–122.

Conderman, G., & Hedin, L. (2012). Classroom assessments that inform instruction. *Kappa Delta Pi Record, 48*(4), 162–168.

Courtade, G, Spooner, F., Browder, D., & Jimenez, B. (2012). Seven reasons to promote standards-based instruction for students with severe Disabilities: A Reply to Ayres, Lowrey, Douglas, & Sievers (2011). *Education and Training* *in Autism and Developmental Disabilities, 47*(1), 3–13.

Kurz, A., Elliott, S., Lemons, C., Zigmond, N., Kloo, A., & Kettler, R. (2014). Assessing opportunity-to-learn for students with disabilities in general and special education classes. *Assessment for Effective Intervention, 40*(1), 24–39.

Lane, S., & Leventhal, B. (2015). Psychometric challenges in assessing English language learners with disabilities. *Review of Research in Education, 39,* 165–214.

U.S. Department of Education. (2014). Questions and Answers Regarding Inclusion of English Learners with Disabilities in English Language Proficiency Assessments and Title III Annual Measurable Achievement Objectives. Retrieved from: *http://www2.ed.gov/programs/sfgp/elswdfaq7182014.doc.*

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities and requirements. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to Absolute Priority 1 in this notice.

Program Authority: For Absolute Priority 1, 20 U.S.C. 1463 and 1481; for Absolute Priority 2, 20 U.S.C. 1411(c) and 1416(i).

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended in 2 CFR part 3474. (d) The regulations for this program in 34 CFR 300.702. (e) The NFP, published elsewhere in this issue of the **Federal Register**.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: $2,000,000.

Note: Applicants must submit a separate Form 524b budget and budget narrative for Absolute Priority 1 only and a separate Form 524b budget and budget narrative for Absolute Priority 2 only. The Secretary will reject any application that does not separately address all the elements of Absolute Priority 1 and Absolute Priority 2 and include separate budgets and budget narratives for Absolute Priority 1 only and Absolute Priority 2 only.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2017 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $2,000,000.

Estimated Average Size of Awards: $2,000,000.

Maximum Award: We will reject any application that proposes a budget for either Absolute Priority 1 or Absolute Priority 2 that exceeds $1,000,000 for a single budget period of 12 months, and we will reject and not review any application that proposes a total budget that exceeds $2,000,000 for a single budget period of 12 months. The Assistant Secretary for Special Education and Rehabilitative Services may change the maximum amount through a notice published in the **Federal Register**.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; LEAs, including public charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; Indian tribes or tribal organizations; and for-profit organizations.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

3. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to Absolute Priority 1, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call the following: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

You can contact ED Pubs at its Web site, also: *www.EDPubs.gov* or at its email address: *edpubs@inet.ed.gov.*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326G.

Individuals with disabilities can obtain a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VIII of this notice.

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 50 pages, using the following standards:

- A "page" is 8.5" × 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section, or if you apply standards other than those specified in this notice and the application package.

3. *Submission Dates and Times:*

Applications Available: July 21, 2016.

Deadline for Transmittal of Applications: August 22, 2016.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. However, under 34 CFR 79.8(a), we waive intergovernmental review in order to make an award by the end of FY 2016.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:* To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government's primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: *http://fedgov.dnb.com/webform.* A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov.*

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at *www.SAM.gov.* To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: *www2.ed.gov/fund/grant/apply/sam-faqs.html.*

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: *www.grants.gov/web/grants/register.html.*

7. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments competition, CFDA number 84.326G, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at *www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for the National Technical Assistance Center to Increase the Participation and Improve the Performance of Students with Disabilities on State and Districtwide Assessments competition at *www.Grants.gov.* You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.*, search for 84.326, not 84.326G).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your

application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.*, Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only, non-modifiable PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1–800–518–4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; and
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: David Egnor, U.S.

Department of Education, 400 Maryland Avenue SW., Room 5163, Potomac Center Plaza (PCP), Washington, DC 20202–5076. FAX: (202) 245–7617.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326G), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

You must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. *Submission of Paper Applications by Hand Delivery.*

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326G), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email

containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* Under the Government Performance and Results Act of 1993 (GPRA), the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. For purposes of this priority, the Center will use these measures, which focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: David Egnor, U.S. Department of Education, 400 Maryland Avenue SW., Room 5163, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7334.

If you use a TDD or a TTY, call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: July 18, 2016.

Sue Swenson,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2016–17324 Filed 7–20–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0085]

Agency Information Collection Activities; Comment Request; Upward Bound and Upward Bound Math Science Annual Performance Report

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before September 19, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0085. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E347, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kenneth Waters, 202–453–6273.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Upward Bound and Upward Bound Math Science Annual Performance Report.

OMB Control Number: 1840–0831.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 975.

Total Estimated Number of Annual Burden Hours: 16,575.

Abstract: The purpose of the Upward Bound (UB) Program is to generate in program participants the skills and motivation necessary to complete a program of secondary education and to enter and succeed in a program of postsecondary education.

Authority for this program is contained in title IV, part A, subpart 2, chapter 1, section 402C of the Higher Education Act of 1965, as amended by the Higher Education Opportunity Act of 2008. Eligible applicants include institutions of higher education, public or private agencies or organizations, including community-based organizations with experience in serving disadvantaged youth, secondary schools, and combinations of institutions, agencies, organizations, and secondary schools.

UB Program participants must be potential first-generation college students, low-income individuals, or individuals who have a high risk for academic failure, and have a need for academic support in order to pursue successfully a program of education beyond high school.

Required program services include: (1) Academic tutoring; (2) advice and assistance in secondary and postsecondary course selection; (3) preparation for college entrance exams and completing the college admission applications; (4) information on federal student financial aid programs including (a) federal Pell grant awards, (b) loan forgiveness, and (c) scholarships; (5) assistance completing financial aid applications; (6) guidance on and assistance in: (a) Secondary school reentry, (b) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma, (c) entry into general educational development (GED) programs or, (d) entry into postsecondary education; (7) education or counseling services designed to improve the financial and economic literacy of students or the students' parents, including financial planning for postsecondary education; and (8) projects funded for at least two years under the program must provide instruction in mathematics through pre-calculus; laboratory science; foreign language; composition; and literature.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–17210 Filed 7–20–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board Quarterly Board Meeting

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Announcement of open and closed meetings.

SUMMARY: This notice sets forth the agenda for the August 4–6, 2016 Quarterly Board Meeting of the National Assessment Governing Board (hereafter referred to as Governing Board). This notice provides information to members of the public who may be interested in attending the meeting or providing written comments on the meeting. The notice of this meeting is required under § 10(a)(2) of the Federal Advisory Committee Act (FACA).

DATES: The Quarterly Board Meeting will be held on the following dates:

- August 4, 2016 from 12:00 p.m. to 6:00 p.m.
- August 5, 2016 from 8:30 a.m. to 4:30 p.m.
- August 6, 2016 from 7:30 a.m. to 12:00 p.m.

ADDRESSES: Sofitel Chicago Water Tower, 20 East Chestnut Street, Chicago, IL 60611

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer/Designated Federal Official of the Governing Board, 800 North Capitol Street NW., Suite 825, Washington, DC 20002, telephone: (202) 357–6938, fax: (202) 357–6945.

SUPPLEMENTARY INFORMATION:

Statutory Authority and Function: The Governing Board is established under the National Assessment of Educational Progress Authorization Act, Title III of Public Law 107–279. Information on the Governing Board and its work can be found at *www.nagb.gov.*

The Governing Board is established to formulate policy for the National Assessment of Educational Progress (NAEP). The Governing Board's responsibilities include the following: Selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, developing standards and procedures for interstate and national comparisons, improving the form and use of NAEP, developing guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

August 4–6, 2016 Committee Meetings

The Governing Board's standing committees will meet to conduct regularly scheduled work based on agenda items planned for this Quarterly Board Meeting and follow-up items as reported in the Governing Board's committee meeting minutes available at *http://nagb.gov/what-we-do/board-committee-reports-and-agendas.html.*

Detailed Meeting Agenda: August 4–6, 2016

August 4: Assessment Development Committee (ADC): Closed Session: 12:00 p.m.–4:00 p.m.

August 4: Committee on Standards, Design and Methodology (COSDAM): Open Session: 1:00 p.m.–4:00 p.m.

August 4: Reporting and Dissemination (R&D) Committee: Open Session: 1:00 p.m.–4:00 p.m.

August 4: Executive Committee: Open Session: 4:30 p.m.–5:20 p.m.; Closed Session: 5:20 p.m.–6:00 p.m.

August 5: Full Governing Board and Committee Meetings:

Full Governing Board: Open Session: 8:30 a.m.–10:15 a.m.; 12:30 p.m.–4:30 p.m.

ADC: Open Session: 10:30 a.m.–11:25 a.m.; Closed Session: 11:25 a.m.–12:15 p.m.

R&D Committee: Open Session 10:30 a.m.–12:15 p.m.

COSDAM: Open Session: 10:30 a.m.–12:15 p.m.

August 6: Full Governing Board and Committee Meetings:

Nominations Committee: Closed Session: 7:30 a.m.–8:15 a.m.

Full Governing Board: Open Session: 8:30 a.m.–12:00 p.m.

On August 4, 2016, the ADC will meet in closed session from 12:00 p.m.–4:00 p.m. to review the following secure NAEP test items: 2017 reading items at grades 4 and 8; 2017 writing items at grades 4 and 8; 2017 mathematics items at grades 4 and 8; and 2019 reading pilot items for grade 4. This meeting must be conducted in closed session because the test items are secure and have not been released to the public. Public disclosure of the secure test items would significantly impede implementation of the NAEP assessment program if conducted in open session. Such matters are protected by exemption 9(B) of § 552b(c) of Title 5 of the United States Code.

On August 4, the COSDAM will meet in open session from 1:00 p.m. to 4:00 p.m. to conduct regularly scheduled work and the R&D Committee will meet in open session from 2:30 p.m. to 4:00 p.m. to conduct regularly scheduled work.

The Executive Committee will meet in open session on August 4 from 4:30 p.m. to 5:20 p.m. to discuss the nomination of the Governing Board's Vice Chair, the Strategic Vision initiative, and NAEP research grants. The Executive Committee will meet thereafter in closed session from 5:20 p.m. to 6:00 p.m. During the closed session, the Executive Committee will receive and discuss independent government cost estimates and implications for implementing NAEP's Assessment Schedule through 2024. This meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program by providing confidential cost details and proprietary contract costs of current contractors to the public. Discussion of this information would be likely to significantly impede implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of § 552b(c) of Title 5 of the United States Code.

On August 5, the full Governing Board will meet in open session from 8:30 a.m. to 10:15 a.m. The Governing Board will review and approve the August 4–6, 2016 Governing Board meeting agenda and meeting minutes from the May 2016 Quarterly Board Meeting. The Governing Board will then receive welcoming remarks from policymakers representing the Illinois Department of Education and Chicago Public Schools. This session will be followed by a report from the Executive Director of the Governing Board, William Bushaw, followed by updates on the work of the Institute of Education Sciences (IES) and National Center for Education Statistics (NCES) provided by the Acting Commissioner of NCES, Peggy Carr. The Governing Board will recess for committee meetings at 10:15 a.m. which are scheduled to take place from 10:30 a.m. to 12:15 p.m.

The COSDAM and R&D Committees will meet in open session from 10:30 a.m. to 12:15 p.m. The ADC will meet in open session from 10:30 a.m. to 11:25 a.m. and thereafter in closed session from 11:25 a.m. to 12:15 p.m. to review assessment items for the NAEP transition to digital-based assessments (DBA). The review will include secure items in reading, mathematics and science at grades 4 and 8 from the 2016 pilot, in preparation for the 2017 operational assessment. The committee's reviews and discussions on secure test items cannot be discussed in an open meeting to protect the confidentiality of the secure assessment materials. Premature disclosure of these results would significantly impede implementation of the NAEP assessment program, and is therefore protected by exemption 9(B) of § 552b(c) of Title 5 of the United States Code.

Following the committee meetings on August 5, the full Governing Board will meet in open session from 12:30 p.m. to 4:30 p.m.

From 12:30 p.m. to 2:30 p.m., the Governing Board will have a panel discussion on secondary researchers' use of NAEP data, to be moderated by Governing Board member Andrew Ho, Chair of the COSDAM. Following this session and a break of 30 minutes, the Governing Board will discuss the draft Strategic Vision document from 3:00 p.m. to 4:30 p.m., with an overview provided by the Governing Board's Vice Chair, Lucille Davy. After the overview, the Governing Board will convene in three small groups to discuss the draft Strategic Vision. Members of the public are welcome to observe the breakout sessions. The August 5 session of the Governing Board meeting will adjourn at 4:30 p.m.

On August 6, the Nominations Committee will meet in closed session from 7:30 a.m. to 8:15 a.m. The committee will discuss planning for the Governing Board's annual call for nominations for Governing Board terms beginning in October 2017. The 2017 call for nominations is scheduled to start in September 2016. The Nominations Committee's discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of § 552b(c) of Title 5 of the United States Code.

The full Governing Board will meet in open session on August 6, from 8:30 a.m. to 12:00 p.m. The session will begin with remarks by outgoing Governing Board member Anitere Flores from 8:30 a.m. to 8:40 a.m., followed by full Governing Board discussion on the Strategic Vision from 8:40 a.m. to 9:45 a.m. Thereafter, the Governing Board will have a short break and reconvene from 10:00 a.m. to 10:45 a.m. The Governing Board will receive an update on committee reports and take action on the election of the Board Vice Chair. From 10:45 a.m. to 12:00 p.m. the Governing Board will receive a briefing from NCES staff on contextual variables, an *Inside NAEP* series. The August 6, 2016 meeting is scheduled to adjourn at 12:00 p.m.

Access to Records of the Meeting: Pursuant to FACA requirements, the public may also inspect the meeting materials at *www.nagb.gov beginning* on Thursday, August 5, 2016 by 10:00 a.m. ET. The official verbatim transcripts of the public meeting sessions will be available for public inspection no later than 30 calendar days following the meeting.

Reasonable Accommodations: The meeting site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the Adobe Web site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Pub. L. 107–279, Title III—National Assessment of Educational Progress § 301.

Dated: July 18, 2016.

William J. Bushaw,

Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2016–17331 Filed 7–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF EDUCATION

National Advisory Committee on Institutional Quality and Integrity Meeting

AGENCY: National Advisory Committee on Institutional Quality and Integrity (NACIQI), Office of Postsecondary Education, U.S. Department of Education.

ACTION: Announcement of an open meeting.

SUMMARY: This notice sets forth the agenda, date, time, dial-in procedures, and procedures to request to make oral comments for the August 23, 2016 meeting of the NACIQI. The notice of this meeting is required under § 10(a)(2) of the Federal Advisory Committee Act (FACA) and § 114(d)(1)(B) of the Higher Education Act (HEA) of 1965, as amended.

DATES: The NACIQI meeting will be held on August 23, 2016, from 12:00 p.m. to 5:00 p.m. Eastern Time via telephone conference.

Dial-In Procedures

The meeting will be conducted via telephone conference. Participants and members of the public should dial: 888–566–6510 and enter code 9937417 when prompted. Participation in the meeting will be on a first-come first-served basis with the first 300 hundred callers accommodated. The meeting will also be hosted via webinar at: *https://educate.webex.com/educate/e.php?MTID=m114df4b98257cd8e99b5aede5c9fd598.*

FOR FURTHER INFORMATION CONTACT: Jennifer Hong, Executive Director/Designated Federal Official, NACIQI, U.S. Department of Education, 400 Maryland Avenue SW., Room 6W250, Washington, DC 20202, telephone: (202) 453–7805, or email: *Jennifer.Hong@ed.gov.*

SUPPLEMENTARY INFORMATION: *NACIQI's Statutory Authority and Function:* The NACIQI is established under § 114 of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1011c. The NACIQI advises the Secretary of Education about:

- The establishment and enforcement of the criteria for recognition of accrediting agencies or associations under subpart 2 of part H of Title IV of the HEA, as amended.
- The preparation and publication of the list of nationally recognized accrediting agencies and associations.
- The eligibility and certification process for institutions of higher education under Title IV of the HEA, together with recommendations for improvement in such process.
- The relationship between (1) accreditation of institutions of higher education and the certification and eligibility of such institutions, and (2) State licensing responsibilities with respect to such institutions.
- Any other advisory function relating to accreditation and institutional eligibility that the Secretary may prescribe by regulation.

Meeting Agenda: Below is a list of agencies, including their current and requested scopes of recognition, that are scheduled for review by NACIQI during the August 23, 2016 meeting. The meeting will be conducted in accordance with the review procedures outlined in the March 18, 2016 **Federal Register** notice (Vol. 81, No. 53).

Applications for Renewal of Recognition

1. Accrediting Commission of Career Schools and Colleges

Scope of recognition: The accreditation of private, postsecondary, non-degree-granting institutions and degree-granting institutions in the United States, including those granting associate, baccalaureate and master's degrees, that are predominantly organized to educate students for occupational, trade and technical careers, and including institutions that offer programs via distance education.

2. American Osteopathic Association, Osteopathic College Accreditation

Scope of recognition: The accreditation and preaccreditation ("Provisional Accreditation") throughout the United States of freestanding institutions of osteopathic medicine and of osteopathic medical programs leading to the degree of Doctor of Osteopathy or Doctor of Osteopathic Medicine.

Title IV Note: Only freestanding schools or colleges of osteopathic medicine may use accreditation by this agency to establish eligibility to participate in Title IV programs.

3. Council on Occupational Education

Scope of recognition: The accreditation and preaccreditation ("Candidacy Status") throughout the United States of postsecondary occupational education institutions offering non-degree and applied associate degree programs in specific career and technical education fields, including institutions that offer programs via distance education.

4. Transnational Association of Christian Colleges and Schools, Accreditation Commission

Scope of recognition: The accreditation and preaccreditation ("Candidate" Status) of Christian postsecondary institutions in the United States that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees, including institutions that offer distance education.

Compliance Reports

- *Northwest Commission on Colleges and Universities*

Scope of recognition: The accreditation and preaccreditation ("Candidacy Status") of postsecondary degree-granting educational institutions in Alaska, Idaho, Montana, Nevada, Oregon, Utah, and Washington, and the accreditation of programs offered via distance education within these institutions. (Compliance report on 34 CFR 602.24(a) and 602.24(b) for findings affirmed on appeal by the Secretary. Please see *http://oha.ed.gov/secretarycases/2014-7-O-S.pdf* for the Secretary's appeal decision.)

Submission of requests to make an oral comment regarding a specific accrediting agency under review: Pre-registered third-party oral commenters will have the opportunity to make a three-minute oral comment concerning one of the agencies scheduled for review at the August 23, 2016 meeting. These oral commenters are listed on the June 22–24, 2016 agenda, which is available at: *http://www2.ed.gov/about/bdscomm/list/naciqi-dir/2016-spring/naciqi-agenda-june-2016.pdf*

Oral comments about agencies undergoing review must relate to the Criteria for Recognition of Accrediting Agencies, which is available at: *http://www.ed.gov/admins/finaid/accred/index.html.* Oral commenters may also register on August 23, 2016 to make an oral comment during NACIQI's deliberations concerning a particular agency or institution scheduled for review, by calling (202) 453–7615 from 7:30 a.m.–8:30 a.m. Eastern Time. The requestor must provide his or her name, title, organization/affiliation, mailing address, email address, and telephone number. A total of up to fifteen minutes during each agency review will be allotted for oral commenters who register on August 23, 2016 by 8:30 a.m. Eastern Time. Individuals will be selected on a first-call, first-served basis. If selected, each commenter may not exceed three minutes. The oral comments made will become part of the official record and will be considered by the Department and NACIQI in their deliberations. No individual in attendance or making oral presentations may distribute written materials at the meeting.

Access to Records of the Meeting: The Department will post the official report of the meeting on the NACIQI Web site 90 calendar days after the meeting. Pursuant to the FACA, the public may also inspect the materials at 400 Maryland Avenue SW., Washington, DC, by emailing *aslrecordsmanager@ed.gov* or by calling (202) 453–7110 to schedule an appointment.

Reasonable Accommodations: If you will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although we will attempt to meet a request received after that date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

Electronic Access to This Document

The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available for free at the Adobe Web site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Delegation of Authority: The Secretary of Education has delegated authority to Lynn B. Mahaffie, Deputy Assistant Secretary for Planning, Policy, and Innovation, to perform the duties of Assistant Secretary for Postsecondary Education.

Authority: 20 U.S.C. 1011c.

Lynn B. Mahaffie,

Deputy Assistant Secretary for Planning, Policy, and Innovation, delegated the duties of Assistant Secretary for Postsecondary Education.

[FR Doc. 2016–17233 Filed 7–20–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP16–479–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization

Take notice that on July 11, 2016, Columbia Gas Transmission, LLC (Columbia), pursuant to its blanket certificate authorization granted in Docket No. CP83–76–000,[1] filed an application in accordance to sections 157.205 and 157.213(b) of the Commission's Regulations under the Natural Gas Act (NGA) as amended, requesting authority to modify certain natural gas storage facilities in the Pavonia Storage Field located in Ashland County, Ohio (Pavonia). The proposed construction is an effort to recovery the overall field deliverability at the Pavonia, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Currently, the Pavonia consists of 298 active wells and 2 observation wells and is operated with a total storage capacity of 45.4 Bcf, including 20.8 Bcf of base gas and 24.6 Bcf of working gas. Over time, the sub grade soil conditions around the reservoir degrade and cause restriction of gas flow through the existing vertical wells. Columbia proposes to construct a 540-foot horizontal well (Pavonia 12595) within a geological-favorable area of the Pavonia peaking group, 220 feet of 6-inch storage pipeline (SLW–12595), and appurtenances. The main purpose of the proposed facilities is to maintain field performance late in the withdrawal season when reservoir pressure is lowest. It is estimated that the new horizontal well will provide 25 MMcf/day at the wellhead. Columbia's request seeks no change in the certificated physical parameters, including total inventory, reservoir pressure, and capacity. The construction of the proposed facilities will cost approximately $2,750,000.

Any questions concerning this application may be directed to Matthew J. Agen, Senior Counsel, Columbia Gas Transmission, LLC, 5151 San Felipe, Suite 2400, Houston, Texas 77056, or by phone at (713) 386–3619; email *magen@cpg.com.*

This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or call toll-free at (866) 208–3676, or, for TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages interveners to file electronically.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the

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[1] 22 FERC ¶ 62,029 (1983).

NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Dated: July 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–17219 Filed 7–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14789–000]

Lock+ Hydro Friends Fund IV, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 27, 2016, the Lock+ Hydro Friends Fund IV, LLC filed an application for a preliminary permit under section 4(f) of the Federal Power Act proposing to study the feasibility of the proposed Mississippi River Lock and Dam 26 Project No. 14789–000, to be located at the existing Mississippi River Lock and Dam No. 26 on the Mississippi River, near the City of West Alston, in St. Charles County, Missouri and the City of Alton, in Madison County, Illinois. The Mississippi River Lock and Dam No. 26 is owned by the United States government and operated by the U.S. Army Corps of Engineers.

The proposed project would consist of: (1) A new 750-foot-long by 22-foot-wide by 66-foot-high steel frame modular hydropower system containing fifty 1.5-megawatt (MW) hydropower turbines for a total combined generating capacity of 75 MW; (2) a new 550-foot-long by 750-foot-wide tailrace; (3) a new 50-foot by 100-foot switchyard; (4) a new 5.2-mile-long, 69-kilovolt (kV) or 115 kV transmission line; and (5) appurtenant facilities. The project would have an estimated annual generation of 427,050 megawatt-hours.

Applicant Contact: Mr. Wayne F. Krouse, P.O. Box 43796, Birmingham, AL 35243; telephone (877) 556–6566, extension 709.

FERC Contact: Tyrone A. Williams, (202) 502–6331.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14789–000.

More information about this project, including a copy of the application, can be viewed or printed on the "eLibrary" link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14789) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–17221 Filed 7–20–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 77–282]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Application for Temporary Variance of Minimum Flow Requirements.

b. *Project No.:* 77–282.

c. *Date Filed:* July 6, 2016.

d. *Applicant:* Pacific Gas and Electric Company (licensee).

e. *Name of Project:* Potter Valley Project.

f. *Location:* Eel River and East Fork Russian River in Lake and Mendocino Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Elizabeth Rossi, Senior License Coordinator, Pacific Gas and Electric Company, Mail Code: N13E, P.O. Box 770000, San Francisco, CA 94177, Phone: (415) 973–2032.

i. *FERC Contact:* Mr. John Aedo, (415) 369–3335, or *john.aedo@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission (August 15, 2016). The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–77–282) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* The licensee requests a temporary variance of the minimum flow requirements in the Eel River below Scott Dam and the East Branch of the Russian River. The licensee explains that Lake Pillsbury only filled to 80 percent this year due to: Dry spring conditions; the April 1, 2016 closure schedule of the spillway gates for dam safety purposes; and minimum and supplemental flow releases. Therefore, in order to conserve water resources, ensure that adequate water is available for minimum flow releases and regular water deliveries later in the year, and avoid Lake Pillsbury bank sloughing and water turbidity, the licensee proposes to reduce minimum flow releases at the project. Specifically, the licensee proposes to reduce flows in the Eel River below Scott Dam from the required 60 cubic feet per second (cfs) normal year requirement to the 20 cfs critical year requirement. The licensee would also reduce minimum flows in the East Branch Russian River from the 75 cfs normal year requirement to the 25 cfs dry year requirement, and possibly the 5 cfs critical year requirement, depending on storage conditions and in consultation with the resource agencies and stakeholders. In conjunction with the proposed variance, the licensee proposes to provide no more than 50 cfs to the Potter Valley Irrigation District (PVID) through the East Branch Russian River.

The licensee also proposes to establish a Potter Valley Drought Working Group, comprised of the resource agencies and stakeholders, which would meet twice monthly during the variance to determine appropriate release levels within the framework of the proposed variance. The licensee requests that once a flow is established, that a 24-hour average flow be used as the compliance criteria for the corresponding compliance point. Finally, the licensee proposes to file monthly compliance reports with the Commission, and to provide bi-monthly email reports to the resource agencies and stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov*, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of proposed action. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: July 15, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–17220 Filed 7–20–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9949–37–OARM]

Good Neighbor Environmental Board; Notification of Public Advisory Committee Teleconference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Advisory Committee Teleconference.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Good Neighbor Environmental Board (Board) will hold a public teleconference on Friday, August 26 from 12:00 p.m.–4:00 p.m. Eastern Daylight Time. For further information regarding the teleconference and background materials, please contact Ann-Marie Gantner at the number and email provided below.

Background: The Good Neighbor Environmental Board is a federal advisory committee chartered under the Federal Advisory Committee Act, Public Law 92–463. By statute, the Board is required to submit an annual report to the President on environmental and infrastructure issues along the U.S. border with Mexico.

Purpose of Meeting: The purpose of this teleconference is to continue discussion on the Good Neighbor Environmental Board's Seventeenth Report to the President, which will focus on climate change resilience in the U.S.-Mexico border region.

General Information: The agenda and teleconference materials, as well as general information about the Board, can be found at *http://www2.epa.gov/faca/gneb.* If you wish to make oral comments or submit written comments to the Board, please contact Ann-Marie Gantner at least five days prior to the teleconference.

Meeting Access: For information on access or services for individuals with disabilities, please contact Ann-Marie Gantner at (202) 564–4330 or email at *gantner.ann-marie@epa.gov.* To request accommodation of a disability, please contact Ann-Marie Gantner at least 10 days prior to the meeting to give EPA as much time as possible to process your request.

Dated: July 12, 2016.

Ann-Marie Gantner,

Designated Federal Officer.

[FR Doc. 2016–17276 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0452; FRL–9948–85]

Notice of Receipt of Requests To Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of request by

registrants to voluntarily cancel certain pesticide registrations and amend one pesticide registration. The amendment request would delete dodecylguanidine hydrochloride (DGH) use in disposable diapers. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw their requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

DATES: Comments must be received on or before August 22, 2016.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0452, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Avenue NW., Washington, DC 20460–0001.

Submit written withdrawal request by mail to: Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. ATTN: Rachel Ricciardi.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Rachel Ricciardi, Antimicrobials Division (7510P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (703) 347–0465; email address: *ricciardi.rachel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental and human health advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 176 pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) and amend one product registration for DGH by deleting the specific use listed in Table 2 of this unit. The registrations to cancel pesticide products are listed in sequence by registration number in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product name	Active ingredient
211–40	Q4.5–5.0PB–4.5	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
211–50	Q5.5–5.5NPB–2.5HW	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
498–197	Spray Disinfectant	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); and Ethanol.
777–44	Lysol Deodorizing Cleaner	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
875–194	Divosan Quat-Klenz	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C12, 30%C14, 5%C16, 5%C18).
1022–592	Secure	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
1043–19	Staphene Disinfectant Spray and Deodorizer.	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18); o-Phenylphenol; 4-tert-Amylphenol; 2-Benzyl-4-chlorophenol; and Ethanol.
1043–77	Powder Keg	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
1258–1275	A-Breeze Solid PHMB	Poly(iminoimidocarbonyliminoimidocarbonyliminohexamethylene) hydrochloride.
1258–1277	Vantocil S Microbiocide	Poly(iminoimidocarbonyliminoimidocarbonyliminohexamethylene) hydrochloride.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Active ingredient
1258–1325	Baquacide 795 Swimming Pool Algicide	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
1459–72	Bullen Ready To Use Disinfectant	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) and Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
1677–205	A–215	Glutaraldehyde.
1677–206	A–245	Glutaraldehyde.
1839–85	Aerosol Surface Disinfectant	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); and Isopropyl alcohol.
1839–102	CD 4.5 (D & F)	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
1839–112	PT 4.0 Pine Scent Disinfectant/Detergent.	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); and Pine Oil.
1839–128	BTC 99	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
1839–138	10% BTC 99 Industrial Water Cooling Tower Algaecide.	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
1839–188	Aerosol SDAS	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Isopropyl alcohol; Triethylene glycol; and Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
2296–102	NAC Pine Odor Disinfectant	Pine oil and 2-Benzyl-4-chlorophenol.
2296–104	NACA Pine Oil Disinfectant	Pine oil.
2296–105	Pine-Act	Pine oil and 2-Benzyl-4-chlorophenol.
2296–112	Mint Quat	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
3573–69	Z–1	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
3573–74	Cougar	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Chlorhexidine diacetate.
3862–11	Pine Odor Disinfectant	Pine oil and Sodium 2-benzyl-4-chlorophenate.
3862–76	Lemon DS–32	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) and Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18).
4313–93	Ocide Plus	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); and Ethanol.
4822–554	AD–SS–06	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
5736–61	HDC V2 1:64	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) and 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
5736–104	Hospital Disinfectant Cleaner	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) and 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
5736–105	Liquid Disinfectant Cleaner	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
5736–106	Foaming Aerosol Disinfectant Cleaner	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
5741–16	PSQ Disinfectant Cleaner	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
5813–28	Pine-Sol	Pine oil.
5813–33	Clean-O-Pine Cone Concentrated Disinfectant.	Pine oil.
5813–36	Pine Sol Cleaner Disinfectant	Pine oil.
5813–41	Clorox Pine Oil	Pine oil.
5813–54	Pine-Sol Cleaner Disinfectant 1	Pine oil.
5813–56	Pine-Sol Cleaner Disinfectant 6	Pine oil.
5813–83	Clorox Losenip	Pine oil.
6198–11	Q–IV	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6243–3	Auto-chlor DS–33	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
6718–24	Amway Pursue Disinfectant Cleaner	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–18	Bardac-22	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–19	Bardac-20	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–28	Lonza Disinfectant Cleaner (19–A)	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–30	Lonza Mildew Preventative	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–41	Lonza Mildew Preventative B–20	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
6836–48	Bardac 2250–7.5	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–68	Bardac 20W	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
6836–74	Lonza Formulation S–39	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Active ingredient
6836–87	Lonza DC–102 Quaternary Pine Oil	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); and Pine oil.
6836–89	205M Sanitizer	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
6836–108	Lonza Carpet Sanitizer CS–202	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
6836–163	Bio-Quat 50–MAB	Alkyl* dimethyl ethyl ammonium bromide *(90% C14, 5% C16, 5% C12).
6836–167	Bio-Guard M–7 Disinfectant	Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
6836–204	Lonza Formulation DC–110N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–205	Lonza Formulation DC–108N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–206	Lonza Formulation DC–109N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–231	Jordaquat 358	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
6836–267	Lonza Formulation DCN 400–256	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–268	Lonza Formulation DCN 400–128	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
6836–269	Lonza Formulation DCN 400–64	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
7124–39	Pool Brite Winterizer	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12); and EDTA, copper salt.
7124–105	Poly Clear	Poly(iminoimidocarbonyliminoimidocarbonyliminohexamethylene) hydrochloride.
7364–37	Green Algae Treatment	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
7405–39	Chemi-Cap Germicidal Multi-Purpose Cleaner.	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) and Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18).
8155–12	Sanitizer Virucidal Husky 803 S/V Disinfectant.	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
8155–17	Carpet Sanitizer Husky C/S Carpet Extraction Concentrate.	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
8155–19	*New Power Husky 315 *N/P Bowl Cleaner.	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14); Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); and Hydrochloric acid.
8155–22	Husky 805 C/D	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
8155–23	Husky 806 H/D/N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
8155–24	Husky 800 N/D	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
9613–5	Crystal—Aqua Swimming Pool Algaecide.	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 25%C12, 15%C16).
9613–13	Bison SP–5 Swimming Pool Algaecide	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 25%C12, 15%C16).
9688–287	Chemsico Insecticide RTU LG	o-Phenylphenol, sodium salt and lambda-Cyhalothrin.
9886–2	Unipine 85	Pine oil.
9886–4	Unipine 80	Pine oil.
9886–10	Unipine 60	Pine oil.
9886–12	Uniclean 30/60	Pine oil.
9886–16	Uniclean 19.9/60	Pine oil.
9886–17	Uniclean 19.9/85	Pine oil.
10088–101	Bafix Germicidal Spray and Wipe Bathroom Cleaner.	Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10088–102	Wint Mint Disinfectant	Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–20	Maquat LC–12S–10%	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18).
10324–39	Maquat MQ2525M–P40	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–49	Maquat LC12–50%	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C8, C10, and C18).
10324–64	Maquat 3.8–MN	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–65	Maquat 80	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–68	Maquat TC76–50% P	Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–73	Maquat MQ615–CT	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Active ingredient
10324–76	Maquat MC6025–10%	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 25%C12, 15%C16).
10324–77	Maquat 50–CT	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–78	Maquat 75	Dialkyl* methyl benzyl ammonium chloride *(60% C14, 30% C16, 5% C18, 5% C12) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–79	Maquat 3.8–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–82	Maquat 1.8–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–83	Maquat 7.0–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–84	Maquat 2.5–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–86	Maquat 2.56–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); and 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–90	Maquat LC12S	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18).
10324–102	Maquat MQ2525M–10% S&W	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–109	Maquat 615–LR	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–118	Maquat 256 EBC	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–119	Maquat 128 EBC	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–120	Maquat 64 EBC	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–124	Pine Odor D-Synfect 7 Disinfectant Cleaner Deodorant.	Pine oil and Alkyl* dimethyl benzyl ammonium chloride *(58%C14, 28%C16, 14%C12).
10324–131	Maquat A	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–134	Maquat 256–1010N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
10324–143	Maquat 10–B	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–144	Maquat 256 MN–FCS	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–146	Maquat 128–1010N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
10324–147	Maquat 64–1010N	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
10324–163	Maquat 12 MN	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–168	Maquat 615 SRTU–200	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–170	Maquat 64–PDX	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–171	Maquat 128–PD–X	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–172	Maquat 128–X	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–173	Maquat 64–X	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–179	Maquat 32 MN–FCS	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–180	Maquat 64 MN–FCS	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–181	Maquat 128 MN–FCS	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product name	Active ingredient
10324–183	Maquat Deter Antimicrobial Agent	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–189	Maquat 21.3–NHQ	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
10324–190	Maquat 14.0–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–191	Maquat 3.5–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–192	Maquat 1.75–M	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–193	Maquat LC12S–40%–LF	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18).
10324–202	Maquat 25.6–X	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–204	Maquat LC12S–50% EUFC	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18).
10324–205	Maquat LC12S–10%FC	Alkyl* dimethyl benzyl ammonium chloride *(67%C12, 25%C14, 7%C16, 1%C18).
10324–213	Maquat 7.5–S	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride.
10324–215	Bol Maid	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; and Hydrochloric acid.
10324–216	Betco Pull	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); and Hydrochloric acid.
11668–10	T & R Brand Pine Disinfectant	Pine oil.
11668–13	El Pinol 60	Pine oil.
11694–88	Do It All Germicidal Foaming Cleaner	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
11694–98	Medaphene Plus Disinfectant Deodorant	o-Phenylphenol and Ethanol.
15136–10	Med-Chem Germicidal Solution	Sodium carbonate and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
15300–8	Chemtreat CL–200	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
39967–96	N–1386 Technical	Bis(trichloromethyl) sulfone.
39967–97	N–1386 Hexylene Glycol	Bis(trichloromethyl) sulfone.
39967–109	N–1386 PEG–EU 20	Bis(trichloromethyl) sulfone.
41550–1	R.P.S. Humidifier Bacteria-Algae Treatment.	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
47033–12	AQB–004 Microbiocide	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
47371–23	FMB 210–15 Quat Concentrated Germicide.	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–47	FMB 210–8 Quat	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–52	HS–210 Mildew Preventative	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–53	Formulation HS 210–15	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–58	HS–210 Swimming Pool Algaecide	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–59	FMB 210–100 Quat Concentrated Germicide.	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
47371–71	Huntington FMB 302–8 Quat Concentrated Germicide.	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride.
47371–86	TB–A23 Disinfectant Bowl Cleaner	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Hydrochloric acid.
47371–87	TB–A32 Disinfectant Bowl Cleaner	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Hydrochloric acid.
49827–2	Pine Glo	Pine oil.
51219–1	Refresh	BTC 1100.
51219–3	ACTABS	BTC 1100.
51219–4	ACTABS XX	BTC 1100.
53053–5	Envirosystems Bioshield 7200	1-Octadecanaminium, N,N-dimethyl-N-(3-(trimethoxysilyl)propyl)-, chloride.
53053–6	Envirosystems Proshield 5000	1-Octadecanaminium, N,N-dimethyl-N-(3-(trimethoxysilyl)propyl)-, chloride.
53053–7	Envirosystems Bioshield 75	1-Octadecanaminium,N,N-dimethyl-N-[3-(trihydroxysilyl)propyl],chloride.
53053–8	Envirosystems Proshield 5000D	1-Octadecanaminium, N,N-dimethyl-N-(3-(trimethoxysilyl)propyl)-, chloride.
55195–4	Coldcide 0.25% Disinfecting Wipes	o-Phenylphenol; 4-tert-Amylphenol; and Glutaraldehyde.
58044–3	Consan Triple Action 20	Alkyl* dimethyl benzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18); Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C12, 30%C14, 17%C16, 3%C18); and Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).

Table 1—Registrations With Pending Requests for Cancellation—Continued

Registration No.	Product name	Active ingredient
60061–78	NP–1 Plus Saptain Control Chemical	1-Decanaminium, N-decyl-N,N-dimethyl-, chloride and Carbamic acid, butyl-, 3-iodo-2-propynyl ester.
66243–3	Clean Control Corp	1-Decanaminium, N,N-dimethyl-N-octyl-, chloride; 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; 1-Octanaminium, N,N-dimethyl-N-octyl-, chloride; and Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
67619–15	Needle	Pine oil.
67619–19	Snip	Pine oil.
70627–3	NADBC–101	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) and Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
70627–10	Johnson's Forward Cleaner	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
70627–21	Virex II/128	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) and 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride.
70627–55	Closure Central 25	Sodium chlorite.
74655–6	Spectrum RX–38	Bis(trichloromethyl) sulfone and Methylene bis(thiocyanate).
84398–1	CZL Oxidize 7.5	Sodium chlorite.
86130–5	FCB–15	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N-decyl-N,N-dimethyl-, chloride; and Glutaraldehyde.

Table 2—Product Registration With Pending Use Deletion

Registration No.	Product name	Active ingredient	Use to be deleted
39967–107	N–2000 Antimicrobial	Dodecylguanidine hydrochloride	Disposable diapers.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Table 1 and Table 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 and Table 2 of this unit.

Table 3—Registrants Requesting Voluntary Cancellation

EPA Company No.	Company name and address
211	Central Solutions, Inc., 401 Funston Road, Kansas City, KS 66115.
498	Chase Products Co., P.O. Box 70, Maywood, IL 60153.
777	Reckitt Benckiser, LLC., 399 Interpace Parkway, Parsippany, NJ 07054.
875	Diversey, Inc., 8310 16th Street, MS 707, Sturtevant, WI 53177.
1022	IBC Manufacturing Co., 416 E. Brooks Road, Memphis, TN 38109.
1043	Steris Corporation, P.O. Box 147, St. Louis, MO 63166.
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
1459	The Bullen Companies, 1640 Delmar Drive, P.O. Box 37, Folcroft, PA 19032.
1677	Ecolab, Inc., 370 North Wabasha Street, St. Paul, MN 55102.
1839	Stepan Company, 22 W. Frontage Road, Northfield, IL 60093.
2296	National Chemical Laboratories, Inc., 401 N. 10th Street, Philadelphia, PA 19123.
3573	The Proctor & Gamble Company, 5299 Spring Grove Avenue, F&HC PS&RA, Cincinnati, OH 45217.
3862	ABC Compounding Co., Inc, P.O. Box 16247, Atlanta, GA 30321.
4313	Carroll Company, 2900 W. Kingsley Road, Garland, TX 75041.
4822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
5736	Diversey, Inc., 8310 16th Street, MS 707, Sturtevant, WI 53177.
5741	Spartan Chemical Company, Inc., 1110 Spartan Drive, Maumee, OH 43537.
5813	Clorox Co., The, P.O. Box 493, Pleasanton, CA 94566.
6198	National Chemicals Inc., 105 Liberty Street, P.O. Box 32, Winona, MN 55987.
6243	Auto-Chlor System, 746 Poplar Avenue, Memphis, TN 38105.
6718	Access Business Group International LLC, 7575 E. Fulton Road, MC 50–1A, Ada, MI 49355.
6836	Lonza Inc., 90 Boroline Road, Allendale, NJ 07401.
7124	Alden Leeds Inc., 55 Jacobus Avenue, South Kearny, NJ 07032.
7364	GLB Pool & Spa, 90 Boroline Road, Allendale, NJ 07401.
7405	CPC Aeroscience, Inc., P.O. Box 667770, Pompano Beach, FL 33066.
8155	Canberra Corporation, 3610 N. Holland-Sylvania Road, Toledo, OH 43615.
9613	Bison Labs Inc., 80 Leslie Street, Buffalo, NY 14211.
9688	Chemsico, P.O. Box 142642, St. Louis, MO 63114.
9886	IFF Chemical Holdings, Inc., 2051 North Lane Avenue, Jacksonville, FL 32254.
10088	Athea Laboratories Inc., P.O. Box 240014, Milwaukee, WI 53224.
10324	Mason Chemical Company, 723 W. Algonquin Road, Suite B, Arlington Heights, IL 60005.
11668	T & R Chemicals, Inc., 700 Celum Road, Clint, TX 79836.
11694	ITW Pro Brands, 805 East Old 56 Highway, Olathe, KS 66061.
15136	Medical Chemical Corp., 19430 Van Ness Ave., Torrance, CA 90501.
15300	Chemtreat, Inc., 5640 Cox Road, Glen Allen, VA 23060.
39967	Lanxess Corporation, 111 RIDC Park West Drive, Pittsburgh, PA 15275.

TABLE 3—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company name and address
41550	RPS Products Inc., 281 Keyes Avenue, Hampshire, IL 60140.
47033	Cascade Water Services, Inc., 113 Bloomingdale Road, Hicksville, NY 11801.
47371	H&S Chemicals Division, 90 Boroline Road, Allendale, NJ 07401.
49827	Pine Glo Products, Inc., 414 S. Main Street, P.O. Box 429, Rolesville, NC 27571.
51219	The Rectorseal Corp., 2601 Spenwick Drive, Houston, TX 77055.
53053	Indusco Ltd., 12733 Director's Loop, Woodbridge, VA 22192.
55195	Colcide, Inc., 12549 Ansin Circle Drive, Potomac, MD 20854.
58044	Parkway Research, 2935 South Koke Mill Road, Springfield, IL 62711.
60061	Kop-Coat, Inc, 436 Seventh Avenue, Pittsburgh, PA 15219.
66243	Clean Control Corp., 5145 Forest Run Trace—Suite B, Alpharetta, GA 30022.
67619	Clorox Professional Products Co, C/O PS&RC, P.O. Box 493, Pleasanton, CA 94566.
70627	Diversey, Inc., 8310 16th Street, MS 707, Sturtevant, WI 53177.
74655	Solenis, LLC., 7910 Baymeadows Way, Suite 100, Jacksonville, FL 32256.
84398	CZL, LLC, P.O. Box 339, Calhoun, GA 30703.
86130	Flowchem Technologies, 289 Cutlass LP, Rayne, LA 70578.

III. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the EPA Administrator may approve such a request.

Section 6(f)(1)(B) of FIFRA (7 U.S.C. 136d(f)(1)(B)) requires that before acting on a request for voluntary cancellation, EPA must provide a 30-day public comment period on the request for voluntary cancellation or use termination. In addition, FIFRA section 6(f)(1)(C) (7 U.S.C. 136d(f)(1)(C)) requires that EPA provide a 180-day comment period on a request for voluntary cancellation or termination of any minor agricultural use before granting the request, unless:

1. The registrants request a waiver of the comment period, or

2. The EPA Administrator determines that continued use of the pesticide would pose an unreasonable adverse effect on the environment.

None of the registrations in Table 1 and Table 2 of Unit II. are for minor agricultural use. Accordingly, EPA will provide a 30-day comment period on the proposed requests.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation or use deletion must submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. EPA proposes to include the following provisions for the treatment of any existing stocks of the products listed in Table 1 and Table 2 of Unit II.

A. For Products 10324–64, 10324–73, 10324–79, 10324–82, 10324–83, 10324–84, 10324–86, 10324–109, 10324–131, 10324–134, 10324–144, 10324–146, 10324–147, 10324–163, 10324–168, 10324–179, 10324–180, 10324–181, 10324–189, 10324–190, 10324–191, 10324–192, 10324–213, 10324–215, 10324–216

The registrant has requested to the Agency via letter to sell existing stocks for an 18-month period for products 10324–64, 10324–73, 10324–79, 10324–82, 10324–83, 10324–84, 10324–86, 10324–109, 10324–131, 10324–134, 10324–144, 10324–146, 10324–147, 10324–163, 10324–168, 10324–179, 10324–180, 10324–181, 10324–189, 10324–190, 10324–191, 10324–192, 10324–213, 10324–215, 10324–216. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation, EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year and 6 months after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

B. For All Other Products Identified in Table 1 and Table 2 of Unit II.

Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products or uses identified in Table 1 and Table 2 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products for 1 year after publication of the Cancellation Order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 and Table 2 of Unit II., except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: July 11, 2016.

Steve Knizner,

Director, Antimicrobials Division, Office of Pesticide Programs.

[FR Doc. 2016–17266 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9949–35–OA]

Notification of a Teleconference of the Science Advisory Board Biogenic Carbon Emissions Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public teleconference of the SAB Biogenic Carbon Emissions Panel to review EPA's *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources (November 2014).*

DATES: The public teleconference will be held on Wednesday, October 12, 2016, from 10:00 a.m. to 1:00 p.m. (Eastern Time).

ADDRESSES: The public teleconference will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding the public teleconference may contact Dr. Holly Stallworth, Designated Federal Officer (DFO), SAB Staff Office, by telephone/voice mail at (202) 564–2073 or via email at *stallworth.holly@epa.gov.* General information concerning the EPA Science Advisory Board can be found at the EPA SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Background: The SAB was established pursuant to the Environmental Research, Development, and Demonstration Authorization Act (ERDAA) codified at 42 U.S.C. 4365, to provide independent scientific and technical peer review, advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA actions. As a Federal Advisory Committee, the SAB conducts business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and related regulations. Pursuant to FACA and EPA policy, notice is hereby given that the SAB Biogenic Carbon Emissions Panel will hold a public teleconferences to consider comments from chartered SAB members on its February 8, 2016 draft report on EPA's *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources (November 2014).* The SAB will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

As noticed in 80 FR 8867–8868, a face-to-face meeting of the Biogenic Carbon Emissions Panel was held on March 25 and 26, 2015 and a teleconference was held on May 29, 2015. Subsequent teleconferences were held on July 6, 2015, August 6, 2015 and September 9, 2015. Background on the current advisory activity can be found on the SAB Web site at *http://yosemite.epa.gov/sab/sabproduct.nsf/fedrgstr_activites/Biogenic%20CO2%20Framework?OpenDocument.*

Availability of the meeting materials: Agendas and meeting materials will be posted on the SAB Web site prior to each teleconference. To locate these materials, go to *http://www.epa.gov/sab* and click on the meeting date on the right hand side. EPA's review document, charge to the Panel and other background materials are also available at the URL above. For questions concerning EPA's *Framework for Assessing Biogenic CO_2 Emissions from Stationary Sources* (November 2014), please contact Sara Ohrel, Climate Change Division, at *ohrel.sara@epa.gov* or (202) 343–9712.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office. Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the panel and the EPA review documents, and/or the group conducting the activity, for the SAB to consider during the advisory process. Input from the public to the SAB will have the most impact if it consists of comments that provide specific scientific or technical information or analysis for the SAB panel to consider or if it relates to the clarity or accuracy of the technical information.

Oral Statements: In general, individuals or groups requesting an oral presentation will be limited to three minutes per speaker for each teleconference. Interested parties should contact Dr. Holly Stallworth, DFO, in writing (preferably via email), at the contact information noted above, by October 5, 2016 to be placed on the list of public speakers for the teleconference. *Written Statements:* Written statements should be received in the SAB Staff Office in advance of each teleconference according to the same deadline listed above for requesting oral comments. Written statements should be supplied to the DFO, preferably in electronic format via email. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the SAB Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Dr. Stallworth at the phone number or email address noted above, at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: July 13, 2016.

Thomas H. Brennan,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2016–17278 Filed 7–20–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0804]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 22, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the "Supplementary Information" section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called "Currently Under Review," (3) click on the downward-pointing arrow in the "Select Agency" box below the "Currently Under Review" heading, (4) select "Federal Communications Commission" from the list of agencies presented in the "Select Agency" box, (5) click the "Submit" button to the right of the "Select Agency" box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0804.

Title: Universal Service—Rural Health Care Program.

Form Numbers: FCC Forms 460, 461, 462, 463, 465, 466, and 467.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit; not-for-profit institutions; federal government; and state, local, or Tribal governments.

Number of Respondents and Responses: 19,484 respondents; 137,846 responses.

Estimated Time per Response: 0.1–40 hours.

Frequency of Response: On occasion, one-time, annual, quarterly, and monthly reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403 and 405.

Total Annual Burden: 289,484 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the Commission. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules. We note that the universal service administrator, the Universal Service Administrative Company (USAC), must preserve the confidentiality of all data obtained from respondents and contributors to the universal service support program mechanism; must not use the data except for purposes of administering the universal service support program; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval to revise the information collection requirements contained in this collection. There is a change in the reporting and recordkeeping requirements.

This collection is utilized for the rural health care (RHC) support mechanism of the Commission's universal service fund (USF). The collection of the information is necessary so that the Commission and USAC will have sufficient information to determine if entities are eligible for funding pursuant to the RHC universal service support mechanism, to determine if entities are complying with the Commission's rules, and to prevent waste, fraud, and abuse. In addition, the information is necessary in order to allow the Commission to evaluate the extent to which the RHC Programs are meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission's own performance goals for the Healthcare Connect Fund. This information collection is being revised to: (1) Eliminate the information requirement for the Internet Access Program; (2) extend some of the existing collection requirements for the Healthcare Connect Fund, the 2006 Pilot Program, and the Telecommunications Program; and (3) revise some of the existing information collection requirements for the Healthcare Connect Fund and the Telecommunications Programs. This information collection is organized by program indicating which information collection requirements are being eliminated, extended, and/or revised for each RHC Program. The Healthcare Connect Fund includes FCC Forms 460, 461, 462, and 463, and the Telecommunications Program includes FCC Forms 465, 466, 467. At the time of the Commission's last information collection submission, 2006 Pilot Program participants were using the FCC Forms for the Telecommunications and Internet Access Programs. 2006 Pilot Program participants and former 2006 Pilot Program participants, however, can now seek funding from the Healthcare Connect Fund and the Telecommunications Programs using the forms for those programs. The revisions to these FCC Forms, where applicable, are intended to make the RHC Program information requests consistent between the programs, to the extent possible. Since the last revision to this information collection, USAC has upgraded its information technology environment to create an integrated online application and administrative process for the Healthcare Connect Fund and all Healthcare Connect Fund forms are being submitted and processed via the online portal. Similarly, the information collection requirements associated with the Telecommunications Program have also been placed online. Taken as a whole, the implementation of these automated systems should reduce administrative burdens and costs for applicants, service providers, and USAC. Since the application processes have now been automated, the Commission will, in this information collection request, submit templates describing the type of information that will be requested from RHC Program participants, rather than submitting paper forms. As part of this information collection, we propose to make the revisions to this information collection and all RHC forms processed via the online portal effective January 1, 2017. The current FCC Forms will remain in effect until that date.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–17180 Filed 7–20–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0010]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 19, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0010.

Title: Ownership Report for Commercial Broadcast Stations, FCC Form 2100, Schedule 323 (formerly FCC Form 323); Section 73.3615, Ownership Reports; Section 74.797, Biennial Ownership Reports.

Form Number: FCC Form 2100, Schedule 323 (formerly FCC Form 323).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local, or Tribal Governments.

Number of Respondents: 4,340 respondents; 4,340 responses.

Estimated Time per Response: 1.5 to 2.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 309, and 310.

Total Annual Burden: 9,620 hours.

Total Annual Cost: $10,093,220.

Privacy Impact Assessment: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB–1, Ownership Report for Commercial Broadcast Stations. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M–03–22 (September 22, 2003).

Nature and Extent of Confidentiality: FCC Form 2100, Schedule 323 (formerly FCC Form 323) collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The FCC/MB–1 SORN, which was approved on December 21, 2009 (74 FR 59978), covers the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 2100, Schedule 323, as required under the *Privacy Act of 1974,* as amended (5 U.S.C. 552a). The Commission is drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the Commission has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060–0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. The Commission maintains a SORN, FCC/OMD–9, Commission Registration System (CORES), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on Form 160. Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

The Commission is revising Form 160 to enable applicants to obtain a Restricted Use FRN, which may be used on Form 2100, Schedule 323 to identify an individual reported as an attributable interest holder. The revised Form 160 will require applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission is revising FCC/OMD–9 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on the revised Form 160.

Needs and Uses: On January 20, 2016, the Commission released a *Report and Order, Second Report and Order, and Order on Reconsideration* in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (*Second Report and Order*). The *Second Report and Order* refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the *Second Report and Order* implements a Restricted Use FRN (RUFRN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFRN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323–E that conform the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Licensees of commercial AM, FM, and full power television broadcast stations, as well as licensees of Class A and Low Power Television stations, must file FCC Form 2100, Schedule 323 (formerly FCC Form 323) every two years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed. Form 2100, Schedule 323 shall be filed by December 1 in all odd-numbered years.

In addition, Licensees and Permittees of commercial AM, FM, and full power television stations must file Form 2100, Schedule 323 following the consummation of a transfer of control or an assignment of a commercial AM, FM, or full power television station license or construction permit; a Permittee of a new commercial AM, FM, or full power television station must file Form 2100, Schedule 323 within 30 days after the grant of the construction permit; and a Permittee of a new commercial AM, FM, or full power television broadcast station must file Form 2100, Schedule 323 to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 2100, Schedule 323 must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2016–17179 Filed 7–20–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0084]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 19, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0084.

Title: Ownership Report for Noncommercial Educational Broadcast Stations, FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E); Section 73.3615, Ownership Reports.

Form Number: FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E).

Type of Review: Revision of a currently approved collection.

Respondents: Not-for-profit institutions.

Number of Respondents: 2,636 respondents; 2,636 responses.

Estimated Time per Response: 1 to 1.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 308, 309, and 310.

Total Annual Burden: 3,867 hours.

Total Annual Cost: $2,319,900.

Privacy Impact Assessment: The Commission is drafting a Privacy Impact Assessment (PIA) for the personally identifiable information (PII) that is covered by the system of records notice (SORN), FCC/MB–1, Ownership Report for Commercial Broadcast Stations. The Commission is also revising the FCC/MB–1 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 2100, Schedule 323–E. The PIA will address the PII that is covered by the FCC/MB–1 SORN, as revised. Upon completion of the PIA, it will be posted on the FCC's Web site, as required by the Office of Management and Budget (OMB) Memorandum, M–03–22 (September 22, 2003).

Nature and Extent of Confidentiality: FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E) collects two types of information from respondents: PII in the form of names, addresses, job titles and demographic information; and FCC Registration Numbers (FRNs).

The Commission is revising the FCC/MB–1 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 2100, Schedule 323–E, as required under the *Privacy Act of 1974,* as amended (5 U.S.C. 552a). The Commission is also drafting a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

FRNs are assigned to applicants who complete FCC Form 160 (OMB Control No. 3060–0917). Form 160 currently requires applicants for FRNs to provide their Taxpayer Information Number (TIN) and/or Social Security Number (SSN). The FCC's electronic Commission Registration System (CORES) then provides each registrant with a CORES FRN, which identifies the registrant in his/her subsequent dealings with the FCC. This is done to protect the individual's privacy. The Commission maintains a SORN, FCC/OMD–9, Commission Registration System (CORES), to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on FCC Form 160. FCC Form 160 includes a privacy statement to inform applicants (respondents) of the Commission's need to obtain the information and the protections that the FCC has in place to protect the PII.

The Commission is revising Form 160 to enable applicants to obtain a Restricted Use FRN, which may be used on Form 2100, Schedule 323–E to identify an individual reported as an attributable interest holder. The revised Form 160 will require applicants for Restricted Use FRNs to provide an alternative set of identifying information that does not include the individual's full SSN: His/her full name, residential address, date of birth, and only the last four digits of his/her SSN. Restricted Use FRNs may be used in lieu of CORES FRNs only on broadcast ownership reports and only for individuals (not entities) reported as attributable interest holders. The Commission is revising the FCC/OMD–9 SORN to cover the collection, purpose(s), storage, safeguards, and disposal of the PII that individual respondents may submit on the revised Form 160.

Needs and Uses: On January 20, 2016, the Commission released a *Report and Order, Second Report and Order, and Order on Reconsideration* in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (*323/CORES Order and Reconsideration Order*). The *323/CORES Order and Reconsideration Order* refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the *323/CORES Order and Reconsideration Order* implements a Restricted Use FRN (RUFRN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings. In light of the Commission's adoption of the RUFRN requirement, the *323/CORES Order and Reconsideration Order* eliminates the availability of the Special Use FRN (SUFRN) for broadcast station ownership reports, except in very limited circumstances. The *323/CORES Order and Reconsideration Order* also prescribes revisions to Form 323–E that conform the reporting requirements for noncommercial educational broadcast stations more closely to those for commercial stations, including information about the race, gender, and ethnicity of existing, reportable interest holders; the use of a unique identifier; and the biennial filing requirement. In addition, the *323/CORES Order and Reconsideration Order* makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements will enable the Commission to obtain data reflecting a more useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Licensees of noncommercial educational AM, FM, and television broadcast stations must file FCC Form 2100, Schedule 323–E (formerly FCC Form 323–E) every two years. Pursuant to the new filing procedures adopted in the *323/CORES Order and Reconsideration Order,* Form 2100, Schedule 323–E shall be filed by December 1 in all odd-numbered years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed.

In addition, Licensees and Permittees of noncommercial educational AM, FM, and television stations must file Form 2100, Schedule 323–E following the consummation of a transfer of control or an assignment of a noncommercial educational AM, FM, or television station license or construction permit; a Permittee of a new noncommercial educational AM, FM, or television station must file Form 2100, Schedule 323–E within 30 days after the grant of the construction permit; and a Permittee of a new noncommercial educational AM, FM, or television station must file Form 2100, Schedule 323–E to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that the Permittee applies for a license to cover the construction permit.

In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 2100, Schedule 323–E must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–17178 Filed 7–20–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:09 a.m. on Tuesday, July 19, 2016, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters related to the Corporation's supervision, corporate, and resolution activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Thomas M. Hoenig, seconded by Director Thomas J. Curry (Comptroller of the Currency), concurred in by Chairman Martin J. Gruenberg, that Corporation business required its consideration of the matters which were to be the subject of this meeting on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10).

Dated: July 19, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–17401 Filed 7–19–16; 4:15 pm]

BILLING CODE P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10373, Colorado Capital Bank, Castle Rock, Colorado

Notice is hereby given that the Federal Deposit Insurance Corporation ("FDIC") as Receiver for Colorado Capital Bank, Castle Rock, Colorado ("the Receiver") intends to terminate its receivership for said institution. The FDIC was appointed receiver of Colorado Capital Bank on July 8, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose.

Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: July 18, 2016.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2016–17211 Filed 7–20–16; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. FFIEC–2016–0002]

Notice of Availability of Home Mortgage Disclosure Act (HMDA) Filing Instructions Guides for HMDA Data Collected in 2017 and 2018

AGENCY: Federal Financial Institutions Examination Council (FFIEC).

ACTION: Notice of availability.

SUMMARY: The FFIEC announces the availability of the Filing Instructions Guide (FIG) for Home Mortgage Disclosure Act (HMDA) data collected in 2017 and the Filing Instructions Guide for Home Mortgage Disclosure Act data collected in 2018. The FIGs provide a compendium of resources to help covered financial institutions file with the Bureau of Consumer Financial Protection (Bureau) HMDA data collected in 2017 and 2018.

ADDRESSES: The FIGs for HMDA data collected in 2017 and 2018 are available for download on the Bureau's Web site at *http://www.consumerfinance.gov/hmda.* These materials are also accessible from the FFIEC's Web site at *http://www.ffiec.gov/hmda.*

FOR FURTHER INFORMATION CONTACT: Michael Byrne, *hmdahelp@cfpb.gov* or (855) 438–2372.

SUPPLEMENTARY INFORMATION: The FFIEC[1] is publishing this notice of availability to inform the public of the availability of the FIG for HMDA data collected in 2017 and the FIG for HMDA data collected in 2018. Each filing instructions guide is a compendium of resources to help covered financial institutions file with the Bureau HMDA data collected in 2017 and 2018.

Beginning with HMDA data collected in 2017, responsibility for receiving and processing HMDA data will transfer from the Federal Reserve Board (Board) to the Bureau. The member agencies of the FFIEC—the Bureau, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Board, and the National Credit Union Administration (NCUA)—as well as the Department of Housing and Urban Development (HUD), have agreed that, for HMDA data collected in or after 2017, filing data with the Bureau will be deemed data submission to the appropriate Federal agency.

The FIGs for HMDA data collected in 2017 and 2018 provide summaries of changes to the submission processes for filing with the Bureau. The FIGs also include file specifications, which provide information regarding, for example, valid values, how to format loan/application registers, and how to file HMDA data collected in 2017 and 2018 with the Bureau. The 2018 FIG includes data specifications with instructions on entering data in the loan/application register for HMDA data collected in 2018. The 2017 FIG includes edit specifications, which list the edits that financial institutions must clear on HMDA data before filing it with the Bureau. The 2018 FIG notes that edit specifications for data collected in 2018 will be provided at a later date.

[End of proposed text.]

Dated: July 18, 2016.

Federal Financial Institutions Examination Council.

Judith E. Dupre,

FFIEC Executive Secretary.

[FR Doc. 2016–17234 Filed 7–20–16; 8:45 am]

BILLING CODE 7535–01–P; 6714–01–P; 6210–01–P; 4810–33–P; 4810–AM–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of the agreement is available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012426.

Title: The OCEAN Alliance Agreement.

Parties: COSCO Container Lines Co., Ltd.; CMA CGM S.A.; Evergreen Marine Corporation (Taiwan) Ltd. acting on its own behalf and/or on behalf of other members of the Evergreen Line Joint Service Agreement (ELJSA); and Orient Overseas Container Line Limited and OOCL (Europe) Limited, acting as one party.

Filing Party: Mark J. Fink, Esq. and Robert K. Magovern, Esq.; Cozen O'Connor; 1200 Nineteenth St. NW., Washington, DC 20036.

Synopsis: The agreement would authorize the Parties to share vessels with one another, charter and exchange space on one another's vessels, and enter into cooperative working arrangements in connection with the Parties' services and operations in the trades between Asia, Northern Europe, the Mediterranean, the Middle East, Canada, Central America, and the Caribbean on the one hand, and the U.S. on the other hand.

By Order of the Federal Maritime Commission.

Dated: July 18, 2016.

Karen V. Gregory,

Secretary.

[FR Doc. 2016–17237 Filed 7–20–16; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

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[1] The FFIEC, established in 1979, is an interagency body empowered to prescribe uniform principles and standards for the Federal examination of financial institutions and to make recommendations to promote uniformity in the supervision of such institutions. See 12 U.S.C. 3301.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 18, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Wintrust Financial Corporation,* Rosemont, Illinois; to acquire 100 percent of First Community Financial Corporation, Elgin, Illinois, and thereby indirectly acquire First Community Bank, Elgin, Illinois.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Adage, LLC,* Ogallala, Nebraska; to become a bank holding company through the acquisition of 68.85 percent of the voting shares of Adbanc, Inc., and thereby indirectly acquire Adams Bank & Trust, both of Ogallala, Nebraska.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Luther Burbank Corporation,* Santa Rosa, California; to become a bank holding company upon the conversion of Luther Burbank Savings, Santa Rosa, California, from a savings bank into a commercial bank.

Board of Governors of the Federal Reserve System, July 18, 2016.

Margaret Shanks,

Deputy Secretary of the Board.

[FR Doc. 2016–17271 Filed 7–20–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–0215; Docket No. CDC–2016–0066]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed revision of the National Death Index (NDI). The NDI is a national data base containing identifying death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death, and the death certificate numbers of deceased study subjects. Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects.

DATES: Written comments must be received on or before September 19, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0066 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

National Death Index (NDI), (OMB No. 0920–0215, Expiration 10/31/

2016)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, shall collect statistics on the extent and nature of illness and disability of the population of the United States.

The National Death Index (NDI) is a national data base containing identifying death record information submitted annually to NCHS by all the state vital statistics offices, beginning with deaths in 1979. Searches against the NDI file provide the states and dates of death, and the death certificate numbers of deceased study subjects.

Using the NDI Plus service, researchers have the option of also receiving cause of death information for deceased subjects, thus reducing the need to request copies of death certificates from the states. The NDI Plus option currently provides the International Classification of Disease (ICD) codes for the underlying and multiple causes of death for the years 1979–2015. Health researchers must complete administrative forms in order to apply for NDI services, and submit records of study subjects for computer matching against the NDI file. A three-year Revision request is submitted to update the three data collection forms submitted by NDI users when applying for use of the NDI and when actually using the service. The form updates include editorial changes needed to capture current modes of data transfer and service payment options, direction clarifications, the inclusion of an item to capture any resulting publications, as well as, additional terms and condition associated with the confidentiality agreement. There is no cost to respondents except for their time. The total estimated annual burden hours are 507, an increase of 325 hours due to an anticipated increase of both the number of applicants and an overall average increased time to complete the application form.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Researchers	Application Form	100	1	4.5	450
Researchers	Repeat Request Form	70	1	18/60	21
Researchers	Data Transmittal Form	120	1	18/60	36
Total					507

Jeffrey M. Zirger,

Acting Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–17170 Filed 7–20–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–0001]

Advisory Committee; Science Board to the Food and Drug Administration, Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Science Board to the Food and Drug Administration by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Science Board to the Food and Drug Administration for an additional 2 years beyond the charter expiration date. The new charter will be in effect until June 26, 2018.

DATES: Authority for the Science Board to the Food and Drug Administration will expire on June 26, 2018, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Rakesh Raghuwanshi, Office of the Chief Scientist, Office of the Commissioner, Food and Drug Administration, Bldg. 1, Rm. 3309, 10903 New Hampshire Ave., Silver Spring, MD 20993, 301–796–4769, *rakesh.raghuwanshi@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102–3.65 and approval by the Department of Health and Human Services pursuant to 45 CFR part 11 and by the General Services Administration, FDA is announcing the renewal of the Science Board to the Food and Drug Administration. The committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Science Board advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility. The Science Board shall provide advice to the Commissioner and other appropriate officials on specific complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board will provide advice that supports the Agency in keeping pace with technical and scientific developments, including in regulatory science; and input into the Agency's research agenda; and on upgrading its scientific and research facilities and training opportunities. It will also provide, where requested, expert review of Agency-sponsored intramural and extramural scientific research programs.

The Committee shall consist of a core of 21 voting members including a Chair and Co-Chair. The members, Chair and Co-Chair are selected by the Commissioner or designee from among authorities knowledgeable in the fields of food science, safety, and nutrition; chemistry; pharmacology; translational and clinical medicine and research; toxicology; biostatistics; medical devices; imaging; robotics; cell and tissue based products; regenerative medicine; public health and epidemiology; international health and regulation; product safety; product manufacturing sciences and quality; and other scientific areas relevant to FDA regulated products such as systems biology, informatics, nanotechnology, and combination products. Members will be invited to serve for overlapping terms of up to 4 years. Almost all non-Federal members of this committee serve as Special Government Employees. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. The Committee may also include technically qualified federal members.

Further information regarding the most recent charter and other information can be found at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/ScienceBoardtotheFoodandDrugAdministration/ucm115356.htm* or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This document is issued under the Federal Advisory Committee Act (5 U.S.C. app.). For general information related to FDA advisory committees, please visit us at *http://www.fda.gov/AdvisoryCommittees/default.htm.*

Dated: July 15, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–17182 Filed 7–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2005–D–0155 (formerly 2005D–0219)]

General Principles for Evaluating the Human Food Safety of New Animal Drugs Used in Food-Producing Animals; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft revised guidance for industry #3 entitled "General Principles for Evaluating the Human Food Safety of New Animal Drugs Used in Food-Producing Animals." This draft revised guidance describes the type of information that FDA's Center for Veterinary Medicine (CVM) recommends sponsors provide to address the human food safety of new animal drugs used in food-producing animals.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 19, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions)*: Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2005–D–0155 for "General Principles for Evaluating the Human Food Safety of New Animal Drugs used in Food-Producing Animals." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Julia Oriani, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0788, *julia.oriani@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft revised guidance for industry #3 entitled "General Principles for Evaluating the Human Food Safety of New Animal Drugs used in Food-Producing Animals." This draft revised guidance is intended to inform sponsors of the scientific data and/or information that may provide an acceptable basis to determine that the residue of a new animal drug in or on food, when consumed, presents a reasonable certainty of no harm to humans. This guidance describes a recommended approach for providing human food safety scientific data and/or information. CVM acknowledges that alternate approaches also may be appropriate and encourages sponsors to discuss with CVM whether an alternate approach may be appropriate for specific new animal drugs.

II. Significance of Guidance

This level 1 draft revised guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft revised guidance, when finalized, will represent the current thinking of FDA on the type of information sponsors provide to address the human food safety of new animal drugs used in food-producing animals. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information found in FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

IV. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm* or *http://www.regulations.gov.*

Dated: July 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–17188 Filed 7–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2013–N–0093]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications and Original Biologics License Applications in Prescription Drug User Fee Acts

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by August 22, 2016.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0746. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Evaluation of the Program for Enhanced Review Transparency and Communication for New Molecular Entity New Drug Applications (NME NDAs) and Original Biologics License Applications (BLAs) in Prescription Drug User Fee Acts (OMB Control Number 0910–0746)—Extension

As part of its commitments in the Prescription Drug User Fee Act (PDUFA) V, FDA established a new review Program to promote greater transparency and increased communication between the FDA review team and the applicant on the most innovative products reviewed by the Agency. The Program applies to all NME NDAs and original BLAs that are received from October 1, 2012, through September 30, 2017. The Program is described in detail in section II.B of the document entitled "PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017" (the Commitment Letter) (available at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.*

The goals of the Program are to increase the efficiency and effectiveness of the first review cycle and decrease the number of review cycles necessary for approval so that patients have timely access to safe, effective, and high-quality new drugs and biologics. A key aspect of the Program is an interim and final assessment that will evaluate how well the parameters of the Program have achieved the intended goals. The PDUFA V Commitment Letter specifies that the assessments be conducted by an independent contractor and that they include interviews of pharmaceutical manufacturers who submit NME NDAs and original BLAs to the Program in PDUFA V. The contractor for the assessments of the Program is Eastern Research Group, Inc. (ERG), and the statement of work for the assessments is available at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM304793.pdf.*

In accordance with the PDUFA V Commitment Letter, FDA contracted with ERG to conduct independent interviews of applicants after FDA issues a first-cycle action for applications reviewed under the Program. The purpose of these interviews is to collect feedback from applicants on the success of the Program in increasing review transparency and communication during the review process. ERG will anonymize and aggregate sponsor responses prior to inclusion in the assessments and any presentation materials at public meetings. FDA will publish ERG's assessments, with interview results and findings, in the **Federal Register** for public comment.

Description of Respondents: The respondents to this collection of information are sponsor representatives for NME NDAs and original BLAs.

In the **Federal Register** of December 10, 2015 (80 FR 76699), we published a 60-day notice requesting public comment on the proposed extension of this collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Portion of study	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Pre-test	5	1	5	1.5	7.50
Interviews	135	1	135	1.5	202.50
Total					210

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA typically reviews approximately 40 to 45 NME NDAs and original BLAs per year. ERG interviews 1 to 3 sponsor representatives at a time for each application that receives a first-cycle action from FDA, up to 135 sponsor representatives per year. ERG conducts a pretest of the interview protocol with five respondents. FDA estimates that it will take 1.0 to 1.5 hours to complete the pretest, for a total of a maximum of 7.5 hours. We estimate that up to 135 respondents will take part in the post-action interviews each year, with each interview lasting 1.0 to 1.5 hours, for a total of a maximum of 202.5 hours. Thus, the total estimated annual burden is 210 hours. FDA's burden estimate is based on prior experience with similar interviews with the regulated community.

Dated: July 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–17185 Filed 7–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–E–0406]

Determination of Regulatory Review Period for Purposes of Patent Extension; QUTENZA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for QUTENZA and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of the U.S. Patent and Trademark Office (USPTO), Department of Commerce, for the extension of a patent which claims that human drug product.

DATES: Anyone with knowledge that any of the dates as published (in the **SUPPLEMENTARY INFORMATION** section) are incorrect may submit either electronic or written comments and ask for a redetermination by September 19, 2016. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by January 17, 2017. See "Petitions" in the **SUPPLEMENTARY INFORMATION** section for more information.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA–2010–E–0406 for "Determination of Regulatory Review Period for Purposes of Patent Extension; QUTENZA." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Beverly Friedman, Office of Regulatory Policy, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6250, Silver Spring, MD 20993, 301–796–3600.

SUPPLEMENTARY INFORMATION:

I. Background

The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product.

Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of USPTO may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA has approved for marketing the human drug product QUTENZA (capsaicin). QUTENZA is indicated for management of neuropathic pain associated with postherpetic neuralgia. Subsequent to this approval, the USPTO received a patent term restoration application for QUTENZA (U.S. Patent No. 6,239,180) from NeurogesX, Inc., and the USPTO requested FDA's assistance in determining this patent's eligibility for patent term restoration and also requested that FDA determine the product's regulatory review period. In a letter dated June 23, 2016, FDA advised the USPTO that this human drug product had undergone a regulatory review period and that the approval of QUTENZA represented the first permitted commercial marketing or use of the product. Thereafter, FDA also determined the product's regulatory review period.

II. Determination of Regulatory Review Period

FDA has determined that the applicable regulatory review period for QUTENZA is 2,944 days. Of this time, 2,547 days occurred during the testing phase of the regulatory review period, while 397 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355(i)) became effective:* October 27, 2001. The applicant claims September 27, 2001, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was October 27, 2001, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the FD&C Act:* October 16, 2008. The applicant claims October 13, 2008, as the date the new drug application (NDA) for QUTENZA was initially submitted. However, FDA records indicate that NDA 22–395 was submitted on October 16, 2008.

3. *The date the application was approved:* November 16, 2009. FDA has verified the applicant's claim that NDA 22–395 was approved on November 16, 2009.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the USPTO applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,687 days of patent term extension.

III. Petitions

Anyone with knowledge that any of the dates as published are incorrect may submit either electronic or written comments and ask for a redetermination (see **DATES**). Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must be timely (see **DATES**) and contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Submit petitions electronically to *http://www.regulations.gov* at Docket No. FDA–2013–S–0610. Submit written petitions (two copies are required) to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Dated: July 14, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–17187 Filed 7–20–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Harnessing Big Data to Halt HIV/AIDS.

Date: July 22, 2016.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jose H. Guerrier, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1137, *guerriej@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 14, 2016.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–17175 Filed 7–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review Amended; Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, August 03, 2016, 12:30 p.m. to August 03, 2016, 05:00 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on July 14, 2016, 81 FR 45512.

The Meeting will begin at 11:00 a.m. The meeting date and location remain the same. The meeting is closed to the public.

Dated: July 15, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–17176 Filed 7–20–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–0656]

Great Lakes Pilotage Advisory Committee; Vacancies

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Request for applications.

SUMMARY: The Coast Guard seeks applications for membership on the Great Lakes Pilotage Advisory Committee. The Great Lakes Pilotage Advisory Committee provides advice and makes recommendations to the Secretary of Homeland Security through the Coast Guard Commandant on matters relating to Great Lakes pilotage, including review of proposed Great Lakes pilotage regulations and policies.

DATES: Completed applications should reach the Coast Guard on or before August 22, 2016.

ADDRESSES: Applicants should send a cover letter expressing interest in an appointment to the Great Lakes Pilotage Advisory Committee that also identifies which membership category the applicant is applying under, along with a resume detailing the applicant's experience via one of the following methods:

- *By Email: Michelle.R.Birchfield@uscg.mil.*
- *By Fax:* (202) 372–8387, ATTN: Ms. Michelle Birchfield.
- *By Mail:* Commandant (CG–WWM–2), U.S. Coast Guard, Attention: Ms. Michelle Birchfield, Alternate Designated Federal Officer, Great Lakes Pilotage Advisory Committee, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509.

FOR FURTHER INFORMATION CONTACT: Ms. Michelle Birchfield, Great Lakes Pilotage Advisory Committee Alternate Designated Federal Officer, 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington, DC 20593–7509; telephone 202–372–1537, fax 202–372–8387, or email at *Michelle.R.Birchfield@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Great Lakes Pilotage Advisory Committee is a federal advisory committee established in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C., Appendix). The Great Lakes Pilotage Advisory Committee operates under the authority of 46 U.S.C. 9307, and makes recommendations to the Secretary and the Coast Guard on matters relating to the Great Lakes.

Meetings of the Great Lakes Pilotage Advisory Committee will be held with the approval of the Designated Federal Officer. The Committee is required to meet at least once per year. Additional meetings may be held at the request of a majority of the Committee or at the discretion of the Designated Federal Officer. Further information about the Great Lakes Pilotage Advisory Committee is available by going to the Web site: *https://www.facadatabase.gov.* Click on the search tab and type "Great Lakes" into the search form. Then select "Great Lakes Pilotage Advisory Committee" from the list.

Individuals shall serve terms of office of three years and may be reappointed to one additional term, serving not more than six consecutive years. All members serve at their own expense but may receive reimbursement for travel and per diem from the Federal Government.

We will consider applicants for two positions that expire or become vacant on September 30, 2016.

- One member representing the interests of Great Lakes ports, and
- One member representing the interests of shippers whose cargoes are transported through Great Lakes ports.

To be eligible, applicants shall have at least five years of practical experience in maritime operations.

The Department of Homeland Security does not discriminate in selection of Committee members on the basis of race, color, religion, sex, national origin, political affiliation, sexual orientation, gender identity, marital status, disability and genetic information, age, membership in an employee organization, or other non-merit factor. The Department of Homeland Security strives to achieve a widely diverse candidate pool for all of its recruitment actions.

If you are interested in applying to become a member of the Committee, send your cover letter and resume to Ms. Michelle Birchfield, Alternate Designated Federal Officer of the Great Lakes Pilotage Advisory Committee via one of the transmittal methods in the **ADDRESSES** section by the deadline in the **DATES** section of this notice. Email submittals will receive email receipt confirmation.

Dated: July 14, 2016.

J.G. Lantz,

U.S. Coast Guard, Director of Regulations and Standards.

[FR Doc. 2016–17239 Filed 7–20–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–49]

30-Day Notice of Proposed Information Collection: Family Self-Sufficiency Program Demonstration

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 6, 2016 at 81 FR 27466.

A. Overview of Information Collection

Title of Information Collection: Family Self-Sufficiency (FSS) Program Demonstration.

OMB Control Number: 2528–0296.

Form Number: None.

Type of Request: Revision of a currently approved collection.

Description of the Need for Information and Proposed Use: The Department is conducting this study under contract with MDRC and its subcontractors (Branch Associates and M. Davis and Company, Inc.). The project is an evaluation of the Family Self-Sufficiency Program operated at Public Housing Agencies (PHAs) across the United States. The study will use random-assignment methods to evaluate the effectiveness of the program. FSS has operated since 1992 and serves voucher holders and residents of public housing. The FSS model is essentially a five-year program, and includes case management plus an escrow account. FSS case managers create a plan with families to achieve goals and connect with services that will enhance their employment opportunities. Families accrue money in their escrow accounts as they increase their earnings. To date, HUD has funded two other studies of the FSS program, but neither can indicate how well families would have done in the absence of the program. A random assignment model is needed because participant self-selection into Family Self Sufficiency program limits the ability to know whether program features rather than the characteristics of the participating families caused tenant income gains. Random assignment will limit the extent to which selection bias is driving observed results. The demonstration will document the progress of a group of FSS participants from initial enrollment to program completion (or exit). The intent is to gain a deeper understanding of the program and illustrate strategies that assist participants to obtain greater economic independence. While the main objective of FSS is stable, suitable employment, there are many interim outcomes of interest, including: Getting a first job; getting a higher paying job; self-employment/small business ownership; no longer needing benefits provided under one or more welfare programs; obtaining additional education, whether in the form of a high school diploma, higher education degree, or vocational training; buying a home; buying a car; setting up savings accounts; or accomplishing similar goals that lead to economic independence.

Data collection will include the families that are part of the treatment and control groups. Data will be gathered through surveys.

Members of the Affected Public:

Families receiving subsidized housing and enrolled in the FSS program (treatment group)	1,281
Families receiving subsidized housing and not enrolled in the FSS program (control group)	1,270

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Instrument	Number of respondents	Number of responses per respondent	Average burden/response (in hours)	Total burden hours
36-Month Survey	2,551	1	45 minutes (.75)	1,913
Total				1,913

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 13, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–17294 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR- 5921–N–09]

Privacy Act of 1974; Notice of a Computer Matching Program Between the Department of Housing and Urban Development (HUD) and the Department of Education (ED)

AGENCY: Office of Administration, HUD.

ACTION: Notice of a Computer Matching Program between HUD and ED.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989); and OMB Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public," HUD is issuing a public notice of its intent to conduct a recurring computer matching program with ED for the purpose of incorporating ED debtor files into the Credit Alert Verification Reporting System (CAIVRS), which is a HUD computer information system.

DATES: *Effective Date:* The effective date of the matching program shall begin August 22, 2016, or at least 40 days from the date that copies of the Computer Matching Agreement, signed by both HUD and ED Data Integrity Boards (DIBs), are sent to OMB and Congress, whichever is later, provided that no comments that would result in a contrary determination are received.

Comments Due Date: August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, Room 10110, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Contact the "Recipient Agency" Acting Departmental Privacy Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10139, Washington, DC 20410, telephone number (202) 402–6147 or the "Source Agency" Department of Education, Federal Student Aid/Borrower Services, 830 First Street NE., Room UCP–41F2, Washington, DC 20202, telephone number (202) 377–3436. [These are not a toll-free numbers.] A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Relay Service).

SUPPLEMENTARY INFORMATION: HUD's CAIVRS database includes delinquent debt information from the Departments of Education (ED), Veteran's Affairs (VA), Justice (DOJ), the Small Business Administration (SBA), and the U.S. Department of Agriculture (USDA). This data match will allow the prescreening of applicants for Federal direct loans or Federally guaranteed loans, for the purpose of determining the applicant's credit worthiness, by ascertaining whether the applicant is delinquent or in default on a loan owed directly to, or Federally guaranteed by, the Federal government. Lending Federal agencies and authorized private lending institution will be able to use the CAIVRS debtor file to verify that the loan applicant is not in default, or delinquent on a Federal direct or Federally guaranteed loan, prior to granting the applicant a loan. The CAIVRS database contains Personally Identifiable Information (PII) contributed by participating Federal agencies, including Social Security Numbers (SSNs) and other records of borrowers delinquent or in default on debts owed to, or guaranteed by HUD and other Federal agencies. Authorized users may not deny, terminate, or make a final decision concerning any loan assistance to an applicant or take other adverse action against such applicant based on the information produced by data matches conducted under CAIVRS, until such authorized users have independently verified such adverse information.

Reporting of Matching Program

In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988 as amended, and OMB Bulletin 89–22, "Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public," copies of this notice and report are being provided to the U.S. House Committee on Oversight Government Reform, the U.S. Senate Homeland Security and Governmental Affairs Committee, and OMB.

Authority: HUD has authority to collect and review mortgage data pursuant to the National Housing Act, as amended, 12 U.S.C. 1701 *et seq.*, and related laws. The Department of Education (ED) oversees and manages Federal student aid programs pursuant to the Higher Education Act of 1965, as amended, 20 U.S.C. 1001 *et seq.* This computer matching will be conducted pursuant to Pub. L. 100–503, "The Computer Matching and Privacy Protection Act of 1988," as amended, and OMB Circulars A–129 (Managing Federal Credit Programs). One of the purposes of all Executive departments and agencies is to implement efficient management practices for Federal Credit Programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996; Section 2653 of Pub. L. 98–369; the Federal Credit Reform Act of 1990, as amended; the Federal Debt Collection Procedures Act of 1990, the Chief Financial Officers Act of 1990, as amended; Executive Order 8248; the Cash Management Improvement Act Amendments of 1992; and pre-existing common law authority to charge interest on debts and to offset payments to collect debts administratively.

Objectives To Be Met by the Matching Program

The objective of this matching program is to give program agencies access to a system that allows them to prescreen applicants for loans made, or loans guaranteed, by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or guaranteed by the Federal Government. As part of this process, HUD will be provided access to ED's debtor data for prescreening purposes.

The use of CAIVRS will allow HUD to better monitor its credit programs and to reduce the credit extended to individuals with outstanding delinquencies on debts owed to HUD and other Federal agencies. ED expects that its participation in CAIVRS will further other Federal agencies' efforts to reduce credit risks through loan prescreening, and prompt student loan defaulters, who are denied credit by other Federal agencies, to make arrangements to repay their defaulted student loans.

Under this computer matching program, HUD/CAIVRS receives limited information on borrowers who have defaulted on loans administered by participating Federal agencies each month. The information includes: Borrower ID Number—The Social Security Number (SSN), Employer Identification Number (EIN) or Taxpayer Identification Number (TIN) of the borrower on a delinquent or defaulted Federal direct loan or Federally guaranteed loan. Federal agency personnel and authorized lenders must enter a user authorization code followed by either a SSN or EIN to access CAIVRS. Only the following information is returned or displayed:

○ Yes/No as to whether the holder of that SSN/EIN is in default on a Federal loan; and

○ If Yes, then CAIVRS provides to the lender:

○ Loan case number;

○ Record type (claim, default, foreclosure, or judgment);

○ Agency administering the loan program;

○ Phone number at the applicable Federal agency (to call to clear up the default); and

○ Confirmation Code associated with the query.

Federal law mandates the suspension of the processing of applications for Federal credit benefits (such as government-insured loans) if the applicants are delinquent on Federal or Federally guaranteed debt. Processing may continue only after the borrower satisfactorily resolves the debt (*e.g.,* pays in full or renegotiates a new payment plan). To remove a CAIVRS sanction, the borrower must contact the Federal agency that reported their SSN or EIN to HUD/CAIVRS using the information provided.

Records To Be Matched

HUD will use records from the Single Family Default Monitoring System (SFDMS/F42D (72 FR 65350 November 20, 2007)), and Single Family Insurance System—Claims Subsystem (CLAIMS/A43C (72 FR65348 November 20, 2007)), as combined in CAIVRS to provide an up-to-date dataset to be used in records matching. SFDMS maintains data on mortgages that are 90 or more days delinquent. The Mortgagee or Servicer must submit a Monthly Delinquent Loan Report (HUD–92068–A) to HUD on a monthly basis until the mortgage status has been completed by all Mortgagees, or is otherwise terminated or deleted. Mortgagees and Servicers provide default data to HUD via Electronic Data Interchange (EDI) or using the Internet via FHA Connection, through which the data is sorted, pre-screened, key entered, edited, and otherwise processed. Reports are generated for HUD Headquarters and Field Offices to review.

CLAIMS provides automated receipt, tracking and processing of form HUD–27011, Single Family Application for Insurance Benefits. CLAIMS provides online update and inquiry capability to Single Family Insurance and Claims databases, and to cumulative history files. Claim payments are made by Electronic Funds Transfer (EFT) via an HDS platform (IBM mainframe/Treasury interface) on a daily basis.

For the actual data match, ED will use records from the system of records entitled "Title IV Program Files" (18–11–05), originally published in the **Federal Register** on June 4, 1999 (64 FR 30163), and subsequently amended on December 27, 1999 (64 FR 72407). However, the ED records from which the match information is compiled are maintained in the "Student Financial Assistance Collection Files" system of records (18–11–07), 64 FR 30166 (June 4, 1999), as amended, 64 FR 72407 (December 27, 1999). The ED routine use for this match is published as "routine use number one" in the system of records notice for the "Student Financial Assistance Collection Files" (18–11–07), which permits disclosures of the pertinent information to HUD.

Notice Procedures

HUD and ED have separate procedures for notifying individuals that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD will notify individuals at the time of application for a HUD/FHA mortgage, and ED will notify individuals at the time of application for Title IV, Higher Education Act (HEA) Federal student loan. The application for Title IV, HEA program assistance explains that as part of the application process, ED may disclose information from that application to other Federal agencies under a published "routine use" without the applicants' consent, as permitted by law. HUD and ED published a notice concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government. The Privacy Act also requires that a copy of each Computer Matching Agreement entered into with a recipient agency shall be available upon request to the public.

Categories of Records/Individuals Involved

Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information (PII) from the specified ED system of record. The data elements supplied by ED to CAIVRS are the following:

- Borrower ID Number—The Social Security Number (SSN), Employer Identification Number (EIN) or Taxpayer Identification Number (TIN) of the borrower on a delinquent or defaulted federal direct loan or Federally guaranteed loan.
- Case Number—A reference number issued by the reporting agency for the delinquent or defaulted federal direct loan or Federally guaranteed loan.
- Agency Code—A code assigned to the reporting agency.
- Type Code—A code that indicates the type of record—claim, default, foreclosure, or judgment.
- Borrower ID Type—A code that indicates whether the Borrower ID Number is a SSN, EIN, or TIN.

Period of the Match

Matching will begin at least 40 days from the date that copies of the Computer Matching Agreement, signed by HUD and ED DIBs, are sent to both Houses of Congress and OMB; or at least 30 days from the date this notice is published in the **Federal Register**, whichever is later, provided that no comments that would result in a contrary determination are received. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the Agreement advises the other in writing to terminate or modify the Agreement.

Dated: June 22, 2016.

Patricia A. Hoban-Moore,

Chief Administrative Officer.

[FR Doc. 2016–17255 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5918–N–01]

60-Day Notice of Proposed Information Collection: Promise Zones Reporting

AGENCY: Office of Field Policy and Management, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* September 19, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Brooke M. Bohnet, Senior Management Analyst, Field Operations Division, Field Policy and Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Brooke Bohnet at *Brooke.M.Bohnet@hud.gov* or telephone 202–402–6693. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Bohnet.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Promise Zones Reporting.

OMB Approval Number: 2501–New.

Type of Request: New Collection.

Form Number: HUD–XXXX Monthly Grant Report.

HUD–XXXX Quarterly and Annual Strategic Plan.

HUD–XXXX Non-Federal Investments.

HUD–XXXX New Neighborhood Amenities.

HUD–XXXX Annual Report.

Description of the Need for the Information and Proposed Use: This collection is a new collection that will be collecting information for reporting purposes. This collection will reference the actual application collection that was approved under OMB 2501–033. HUD designated fourteen communities as urban Promise Zones between 2014 and 2016. Under the Promise Zones initiative, the federal government will invest and partner with high-poverty urban, rural, and tribal communities to create jobs, increase economic activity, improve educational opportunities, leverage private investment, and reduce violent crime. Additional information about the Promise Zones initiative can be found at *www.hud.gov/promisezones,* and questions can be addressed to *promisezones@hud.gov.* The federal administrative duties pertaining to these designations shall be managed and executed by HUD for ten years from the designation dates pursuant The Promise Zone Initiative supports HUD's responsibilities under sections 2 and 3 of the HUD Act, 42 U.S.C. 3531–32, to assist the President in achieving maximum coordination of the various federal activities which have a major effect upon urban community, suburban, or metropolitan development; to develop and recommend the President policies for fostering orderly growth and development of the Nation's urban areas; and to exercise leadership, at the direction of the President, in coordinating federal activities affecting housing and urban development. To facilitate communication between local and federal partners, HUD proposes that Promise Zone Lead Organizations submit minimal reports and documents to support collaboration and problem solving between local and federal partners. These reports will also assist in communications and stakeholder engagement, both locally and nationally.

Respondents (i.e. affected public): Fourteen Promise Zone Lead Organizations.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Monthly Federal Grants Update	14	12	168	2	336	$30	$10,080
Quarterly Report: Quarterly and Annual Strategic Plan	14	4	56	10	560	30	16,800
Quarterly Report: Non-Federal Investments	14	4	56	15	840	30	25,200
Quarterly Report: New Neighborhood Amenities	14	4	56	4	224	30	6,720
Annual Report	14	4	56	20	1,120	30	33,600
Public Communications Materials	14	4	56	5	280	30	8,400
Total							100,800

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 15, 2016.

Nelson R. Bregón,

Associate Assistant Deputy Secretary for Office Field Policy Management.

[FR Doc. 2016–17299 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–51]

30-Day Notice of Proposed Information Collection: Public Housing Agency Executive Compensation Information

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on April 26, 2016 at 81 FR 24633.

A. Overview of Information Collection

Title of Information Collection: Public Housing Agency Executive Compensation Information.

OMB Approval Number: 2577–0272.

Type of Request: Revision of previously approved collection.

Form Number: HUD–52725.

Description of the Need for the Information and Proposed Use: Pursuant to PIH Notice 2015–14, HUD collects information on the compensation provided by Public Housing Agencies (PHAs) to the top management official, top financial official, and highest compensated employee, similar to the information that non-profit organizations receiving federal tax exemptions are required to report to the IRS annually. Because PHAs receive significant direct federal funds HUD has been collecting compensation information to enhance regulatory oversight by HUD, as well as state and local authorities. HUD provides the information collected to the public. The compensation data collected includes base salary, bonus, and incentive and other compensation, and the extent to which these payments are made with Section 8 and 9 appropriated funds.

Respondents: Public Housing Agencies.

Estimate Number of Respondents: Approximately 4000.

Estimate Number of Responses: Approximately 4000.

Frequency of Response: Annual.

Average Hours per Response: 30 minutes.

Total Estimated Burden: The total burden hours is estimated to be 2000 hours annually. The total burden cost is estimated to be $45,200.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 13, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–17257 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–52]

30-Day Notice of Proposed Information Collection: Emergency Solutions Grant Data Collection

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 16, 2016 at 81 FR 30338.

A. Overview of Information Collection

Title of Information Collection: Emergency Solutions Grant Data Collection.

OMB Control Number: 2506–0089.

Form Number: None.

Type of Request: Revision of currently approved.

Description of the Need for Information and Proposed Use: This submission is to request an extension of a currently approved collection for the reporting burden associated with program and recordkeeping requirements that Emergency Solutions Grants (ESG) program recipients will be expected to implement and retain. This submission is limited to the recordkeeping burden under the ESG entitlement program. To see the regulations for the ESG program and applicable supplementary documents, visit the ESG page on the HUD Exchange at *https://www.hudexchange.info/programs/esg/*. The statutory provisions and the implementing interim regulations (also found at 24 CFR 576) that govern the program requiring these recordkeeping requirements.

Respondents (i.e. affected public): ESG recipient and subrecipient lead persons.

Estimated Number of Respondents: The ESG record keeping requirements include 18 distinct activities. Each activity requires a different number of respondents ranging from 20 to 78,000. There are 78,000 unique respondents.

Estimated Number of Responses: 526,116.

Frequency of Response: Each activity also has a unique frequency of response, ranging from once annually to monthly.

Average Hours per Response: Each activity also has a unique associated number of hours of response, ranging from 15 minutes to 12 hours and 45 minutes.

Total Estimated Burdens: The total number of hours needed for all reporting is 387,552 hours.

EXHIBIT A–1—ESTIMATED ANNUAL BURDEN HOURS FOR ESG DATA COLLECTION

Information collection	Number of respondent	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours	Hourly rate **	Burden cost per instrument
A	B	C	D	E	F		
576.100(b)(2) Emergency Shelter and Street Outreach Cap	360	1	360	1.00	360	$37.13	$13,366.80
576.400(a) Consultation with Continuums of Care	360	1	360	6.00	2,160	37.13	80,200.80
576.400(b) Coordination with other Targeted Homeless Services	2,360	1	2,360	8.00	18,880	37.13	701,014.40
576.400(c) System and Program Coordination with Mainstream Resources	2,360	1	2,360	16.00	37,760	37.13	1,402,028.80
576.400(d) Centralized or Coordinated Assessment	2,000	1	2,000	3.00	6,000	37.13	222,780.00
576.400(e) Written Standards for Determining the Amount of Assistance	808	1	808	5.00	4,040	37.13	150,005.20
576.400(f) Participation in HMIS	78,000	1	78,000	0.50	39,000	37.13	1,448,070.00
576.401(a) Initial Evaluation	50,000	1	50,000	1.00	50,000	37.13	1,856,500.00
576.401(b) Recertification	20,000	2	40,000	0.50	20,000	37.13	742,600.00
576.401(d) Connection to Mainstream Resources	78,000	3	234,000	0.25	58,500	37.13	2,172,105.00
576.401(e) Housing retention plan	50,000	1	50,000	0.75	37,500	37.13	1,392,375.00
576.402 Terminating Assistance	808	1	808	4.00	3,232	37.13	120,004.16
576.403 Habitability review	52,000	1	52,000	0.60	31,200	37.13	1,158,456.00
576.405 Homeless Participation	2,360	12	28,320	1.00	28,320	37.13	1,051,521.60
576.500 Recordkeeping Requirements	2,360	1	2,360	12.75	30,090	37.13	1,117,241.70
576.501(b) Remedial Actions	20	1	20	8.00	160	37.13	5,940.80
576.501(c) Recipient Sanctions	360	1	360	12.00	4,320	37.13	160,401.60
576.501(c) Subrecipient Response	2,000	1	2,000	8.00	16,000	37.13	594,080
Total	78,000		526,116		387,522		14,388,691.86

Annualized Cost @$37.13/hr (GS–12): $14,388,691.86.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 18, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–17256 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–50]

30-Day Notice of Proposed Information Collection: Continuum of Care Homeless Assistance—Technical Submission

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* August 22, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 13, 2016 at 81 FR 29882.

A. Overview of Information Collection

Title of Information Collection: Continuum of Care Homeless Assistance-Technical Submission.

OMB Control Number: 2506–0183.

Form Number: HUD–40090–3a, HUD–40090–3b.

Type of Request: Extension without change of a currently approved.

Description of the need for information and proposed use: This submission is to request an extension of a currently approved collection associated with the Technical Submission phase of the Continuum of Care (CoC) Program Application. This submission is limited to the Technical Submission process under the CoC Program interim rule, as authorized by the HEARTH Act. Applicants who are successful in the CoC Program Competition are required to submit more detailed technical information before a grant agreement. The information to be collected will be used to ensure that technical requirements are met prior to the execution of a grant agreement. The technical requirements relate to a more extensive description of the budgets for administration costs, timelines for project implementation, match documentation and other project specific documentation, and information to support the resolution of grant conditions. HUD will use this detailed information to determine if a project is financially feasible and whether all proposed activities are eligible. All information collected is used to carefully consider conditional applicants for funding. If HUD collects less information, or collected it less frequently, the Department could not make a final determination concerning the eligibility of applicants for grant funds and conditional applicants would not be eligible to sign grant agreements and receive funding. To see the regulations for the CoC Program and applicable supplementary documents, visit HUD's Homeless Resource Exchange page at *https://www.hudexchange.info/programs/coc/.* The statutory provisions and the implementing interim rule (also found at 24 CFR part 587) that govern the program require the information provided by the Technical Submission.

Respondents (*i.e.*, affected public): Applicants that are successful in the Continuum of Care Homeless Assistance Grant competition.

Estimated Number of Respondents: 750.

Estimated Number of Responses: 750.

Frequency of Response: 1.

Average Hours per Response: 8.

Total Estimated Burdens: 6,000.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
	750	1	750	8	6,000	21	126,000
Total	750	1	750	8	6,000	21	126,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: July 13, 2016.

Anna P. Guido.

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–17258 Filed 7–20–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCOS00000 L11500000.PH000016X]

Notice of Public Meetings, Southwest Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Southwest Resource Advisory Council (RAC) is scheduled to meet as indicated below.

DATES: The Southwest RAC meeting will be held on August 19, 2016, in Gunnison, Colorado.

ADDRESSES: The Southwest RAC will meet August 19 at the Gunnison County Fairgrounds Multi-Purpose Building, 275 S. Spruce St., Gunnison, CO 81230. The meeting will begin at 9 a.m. and adjourn at approximately 4 p.m. A public comment period regarding matters on the agenda will occur at 11:30 a.m.

FOR FURTHER INFORMATION CONTACT: Shannon Borders, Public Affairs Specialist, 970–240–5300; 2505 S. Townsend Ave., Montrose, CO 81401. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Southwest RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in southwest Colorado. Topics of discussion for all Southwest RAC meetings may include field manager and working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, land exchange proposals, cultural resource management and other issues as appropriate. These meetings are open to the public. The public may present written comments to the RACs. Each formal RAC meeting also has time, as identified above, allocated for hearing public comments. Depending on the number of people wishing to comment, the time for individual oral comments may be limited.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2016–17265 Filed 7–20–16; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON05000–L16100000.DU0000–16X]

Notice of Meetings, Northwest Resource Advisory Council White River Field Office Travel Management Subgroup

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Resource Advisory Council's (RAC) White River Field Office (WRFO) Travel Management Subgroup will meet as indicated below.

DATES: The Northwest RAC's WRFO Travel Management Subgroup has scheduled two meetings. The first meeting is August 23, 2016, from 1 p.m. to 3 p.m., with a public comment period regarding matters on the agenda at 2 p.m. The second meeting is September 14, 2016, from 9 a.m. to 12 p.m., with a public comment period regarding matters on the agenda at 11 a.m. A specific agenda for each meeting will be available prior to the meetings at *http://www.blm.gov/co/st/en/BLM_Resources/racs/nwrac.html.*

ADDRESSES: The first meeting (August 23, 2016) will be held at the Meeker Public Library, 490 Main St., Meeker, CO 81641. The second meeting (September 14, 2016) will be held at the BLM WRFO, 220 E. Market St., Meeker, CO 81641.

FOR FURTHER INFORMATION CONTACT: Heather Sauls, Planning and Environmental Coordinator, WRFO, 220 E. Market St., Meeker, CO 81641. Phone: (970) 878–3855. Email: *hsauls@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member Northwest RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in northwest Colorado, which includes the WRFO, Little Snake Field Office, Grand Junction Field Office, Colorado River Valley Field Office and Kremmling Field Office. The Northwest RAC has formed a 12-member Travel Management Subgroup to assist with the WRFO's Travel and Transportation Management Resource Management Plan (RMP) Amendment. The purpose of the meetings is to discuss the RMP Amendment's preliminary alternatives. At the first meeting (August 23, 2016), the focus of the discussion will be to explain the alternatives and the rationale behind them to the Subgroup. At the second meeting (September 14, 2016), the discussion will focus on whether the BLM has developed an adequate range of alternatives and if those alternatives address the planning issues. The Subgroup provides recommendations to the RAC but does not directly advise the BLM. The public may make oral comments to the Subgroup or submit written comments for the Subgroup's consideration. Summary minutes for the Northwest RAC's WRFO Travel Management Subgroup meetings will be maintained in the WRFO and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2016–17267 Filed 7–20–16; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 16–15]

Nicholas J. Nardacci, M.D.; Decision and Order

On December 7, 2015, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Nicholas J. Nardacci, M.D. (hereinafter, Respondent), of Albuquerque, New Mexico. Show Cause Order, at 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration AN9444592, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner, as well as the denial of pending applications, on the ground that Respondent does not have authority to dispense controlled substances in New Mexico, the State in which he is registered with the Agency. *Id.* (citing 21 U.S.C. 823(f) and 824(a)(3)).

As factual support for the proposed actions, the Show Cause Order alleged that Respondent's medical license had expired on July 14, 2014 and had not been reinstated by the New Mexico Medical Board. *Id.* The Show Cause Order also alleged that Respondent's New Mexico controlled substance license had expired on October 31, 2013 and had not been reinstated by the New Mexico Pharmacy Board. *Id.* The Show Cause Order thus alleged that Respondent is currently without authority to handle controlled substances in New Mexico, the State in which he is registered, *id.*, and therefore, his DEA registration is subject to revocation.[1] *Id.* at 2.

On December 18, 2015, the Government accomplished service of the Show Cause Order on Respondent as evidenced by the signed return-receipt card. On January 19, 2016, Respondent requested a hearing on the allegations as well as an extension of time to find an attorney. The matter was placed on the docket of the Office of Administrative Law Judges and assigned to ALJ Charles Wm. Dorman.

On January 20, 2016, the ALJ issued an Order which directed the Government to submit evidence supporting the allegation and an accompanying dispositive motion by February 4, 2016. The ALJ also granted Respondent's request for an extension and ordered that if the Government filed such a motion, Respondent was to file his reply by February 25, 2016. Briefing Schedule For Lack Of State Authority Allegations, at 1.

On February 4, 2016, the Government filed its Motion for Summary Disposition. As support for its Motion, the Government provided a copy of Respondent's registration information, an affidavit from a Diversion Investigator (DI) and printouts she obtained from the New Mexico Medical Board and New Mexico Board of Pharmacy.[2] The Medical Board printout showed that Respondent's medical license had expired on July 1, 2014 and subsequently lapsed. As for the Pharmacy Board printout, it showed that Respondent's state controlled substance license had expired on October 31, 2013. The Government thus argued that Respondent is without authority to dispense controlled substances in New Mexico and does not possess the authority required by the Controlled Substances Act to be registered and therefore, his registration should be revoked. Mot. at 5.

On February 18, 2016, Respondent submitted a letter to the ALJ wherein he noted that he was negotiating with the Medical Board over the withdrawal of his application for reinstatement of his state license. Letter from Respondent to Hearing Clerk, OALJ (Feb. 16, 2016). Respondent further requested that the ALJ grant him "a 30 day extension to" allow him "to reach a settlement with the Medical Board" after which he would either withdraw his DEA application or challenge the Show Cause Order. *Id.* Respondent explained that the Board was requiring him to pass a competency exam in order to be reinstated; he also noted that he was having difficulty finding an attorney he could afford. *Id.* at 2. Respondent attached to his letter, a December 31, 2015 letter from the New Mexico Board informing him that the Board was offering him the opportunity to withdraw his application, but that if he chose not to do so, the Board would issue him a Notice of Contemplated Action to deny the reinstatement of his license. *Id.* at 3. Respondent did not, however, dispute the Government's contention that he is currently without state authority to dispense controlled substances in New Mexico.

Thereafter, the ALJ denied Respondent's request for a second extension, finding unpersuasive his contention that he was in negotiations with the Board to reach a settlement and needed more time. Order Denying The Resp.'s Request For An Extension, Order Granting Summary Judgment, And Recommended Rulings, Findings Of Fact, Conclusions Of Law, And Decision, at 3. The ALJ also found unpersuasive Respondent's other justification for needing an extension, *i.e.*, that he needed more time to find a lawyer, noting that Respondent had more than two months to find one. *Id.*

Turning to the Government's Motion, the ALJ found that there was no factual dispute that Respondent does not possess state authority to dispense controlled substances and thus cannot maintain his DEA registration. *Id.* at 4. The ALJ thus granted the Government's Motion and recommended that Respondent's registration be revoked and that any pending application be denied. *Id.*

Neither party filed exceptions to the ALJ's Recommended Decision. Thereafter, the record was forwarded to my Office for Final Agency Action. Having considered the record in its entirety, I adopt the ALJ's rulings, as well as his findings of fact, legal conclusion and recommended sanction. I make the following finding of fact.

Findings

Respondent was the holder of DEA Certificate of Registration AN9444592, pursuant to which he was authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of 2919 Commercial Street NE., Albuquerque, New Mexico; this registration had an expiration date of October 31, 2014. Motion for Summ. Disp., Attachment 1, at 1. Because Respondent did not submit a renewal application until November 28, 2014, this registration expired, in accordance with its terms, on October 31, 2014. *Id.* However, because there is a pending application, this case remains a live controversy.

Respondent also formerly held a medical license issued by the New Mexico Medical Board. However, Respondent's license expired on July 1, 2014 and was subsequently deemed by the Board to have lapsed. Moreover, according to the online records of the New Mexico Medical Board of which I take official notice, on February 22, 2016, Respondent entered into a Stipulation And Order For Withdrawal Of Application For Licensure, which the Board approved on February 29, 2016, pursuant to which he agreed to withdraw his Application for Reinstatement.[3]

Respondent also formerly held a New Mexico Controlled Substances license. However, this license expired on October 31, 2013.

Discussion

Pursuant to 21 U.S.C. 823(f), "[t]he Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices." *Id.* § 823(f). Moreover, the Controlled Substances Act defines the term "practitioner" to "mean[ ] a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice." *Id.* § 802(21). *See also id.* § 824(a)(3) (authorizing the revocation of a registration upon a finding that the registrant "has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances"). Based on these provisions, the Agency has repeatedly held "that a practitioner can neither obtain nor maintain a DEA registration unless the practitioner currently has authority under state law to handle controlled substances." *James L. Hooper*, 76 FR 71371, 71372 (2011) (collecting cases), *pet. for rev. denied, Hooper* v. *Holder*, 481 F. App'x 826 (4th Cir. 2012).

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[1] The Show Cause Order also notified Respondent of his right to request a hearing on the allegations or submit a written statement while waiving his right to a hearing, and the procedure for electing either option. Show Cause Order, at 2 (citing 21 CFR 1301.43).

[2] The DI averred that during a phone conversation with Respondent, he acknowledged that both of his state licenses had expired. DI Declaration, at 2.

[3] Under the Administrative Procedure Act (APA), an agency "may take official notice of facts at any stage in a proceeding-even in the final decision." U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulation, Respondent is "entitled on timely request to an opportunity to show to the contrary." 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). Respondent may dispute my finding by filing a properly supported motion within fifteen calendar days of this Order which shall commence on the date this Order is mailed.

Here, there is no dispute as to the material fact that Respondent does not hold authority under New Mexico law to dispense controlled substances and is thus not a practitioner within the meaning of the Act. *See* 21 U.S.C. 802(21). Accordingly, his application must be denied. 21 U.S.C. 823(f).

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) and 28 CFR 0.100(b), I order that the application of Nicholas J. Nardacci, M.D., for a DEA Certificate of Registration as a practitioner, be, and it hereby is, denied. This Order is effective immediately.

Dated: July 11, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–17264 Filed 7–20–16; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 10–71]

Turning Tide, Inc. Decision and Order; Procedural History

On August 17, 2010, the former Administrator of the Drug Enforcement Administration issued an Order to Show Cause and Immediate Suspension of Registration (hereinafter, Show Cause Order or Order) to Turning Tide, Inc. (Respondent), of Rockland, Maine. Show Cause Order, at 1. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration RT0370015,[1] which authorized it to dispense controlled substances as a Narcotic Treatment Program pursuant to 21 U.S.C. 823(g)(1), and the denial of any pending applications to renew or modify its registration, on the ground that its "continued registration is inconsistent with the public interest, as that term is defined in 21 U.S.C. 823(f)." *Id.* at 1.

The Show Cause Order specifically alleged that "Respondent is owned by Angel Fuller-McMahan" and that its "registration is conditioned upon a Memorandum of Agreement (MOA) with DEA which prohibits Ms. Fuller-McMahan from (1) having physical access to Respondent's premises; (2) ordering controlled substances on behalf of Respondent; and (3) executing any renewal applications . . . on behalf of Respondent." *Id.* at 1–2. The Order then alleged that Ms. Fuller-McMahan had been arrested on July 13, 2010 and charged with unlawful possession of cocaine, and that at the time of her arrest, she had in her possession approximately 25 grams of cocaine and two hypodermic needles.[2] *Id.* at 2. The Order further alleged that Ms. Fuller-McMahan had "arranged to purchase cocaine" from both a patient and an employee of Respondent. *Id.* The Order also alleged that "[w]hile serving as Respondent's Program Director, Ms. Fuller-McMahan approached another patient . . . and offered to trade methadone for cocaine" by "creat[ing] a fraudulent order for methadone," even though she was then prohibited by the MOA from ordering controlled substances on behalf of Respondent. *Id.* The Order then alleged that Ms. Fuller-McMahan had purchased cocaine in three separate "illegal drug transactions with another of Respondent's patients." *Id.*

Next, the Show Cause Order alleged that notwithstanding the MOA's terms, "Ms. Fuller-McMahan continues to retain control and have supervisory authority over key aspects of Respondent's operation," that she had represented to a patient "that she has access to controlled substances which are ordered on behalf of Respondent," and that she has "repeatedly violated the terms of the MOA by entering the physical premises of [Respondent] and executing a renewal application on [its] behalf." *Id.* Finally, the Order alleged that Respondent "continued to employ Ms. Fuller-McMahan's husband, Vance McMahan, despite the fact that Mr. McMahan has been convicted of illegal drug possession and has access to Respondent's controlled substances and confidential patient information." *Id.*

Based on the above allegations, the former Administrator concluded that Respondent's continued registration during the pending of the proceeding would "constitute an imminent danger to the public health and safety" and therefore ordered that its registration be suspended immediately. *Id.* at 3 (citing 21 U.S.C. 824(d)). The former Administrator also authorized the Special Agents and Diversion Investigators who served the Order to either "place under seal or to remove for safekeeping all controlled substances that [Respondent] possesses pursuant to the registration which [was] suspended." *Id.* (citing 21 U.S.C. 824(f) and 21 CFR 1301.36(f)).

Thereafter, Respondent requested a hearing on the allegations and the matter was placed on the docket of the Agency's Administrative Law Judges (ALJ). Following the ALJ's issuance of an Order for Pre-Hearing Statements, the Government moved for summary disposition on the ground that on September 7, 2010, the Maine Department of Health and Human Services (MDHHS) had temporarily suspended Respondent's Substance Abuse Treatment license. ALJ Dec., at 3. As support for the motion, the Government attached a letter dated September 7, 2010 from the Director of the MDHHS's Division of Licenses & Regulatory Services to Ms. Fuller-McMahan. Mot. for Summ. Disp., at Ex. 2. Therein, the Director stated that MDHHS was "revoking on an emergency basis for a period not to exceed thirty days the agency's licenses to operate an Opioid Treatment Program and . . . Outpatient Substances Abuse Services." *Id.* (citing 14–118 C.M.R. Ch. 5, § 2.10.9). The letter further stated that "[t]he Department reserves its right to petition the District Court to extend the period of license revocation in accordance with 4 M.R.S.A. § 184(6) and 5 M.R.S.A. § 10003." *Id.* at 2.

Upon reviewing the motion, the ALJ directed Respondent to file a response to the Government's motion, which Respondent did after obtaining an extension.[3] ALJ Dec., at 3. Thereafter, the Government filed a further pleading in which it noted that MDHHS had filed a complaint in state court seeking the temporary suspension and permanent revocation of Respondent's Maine

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[1] The Order alleged that Respondent's registration was due to expire on November 30, 2010.

[2] The Order also alleged that on August 31, 2001, Ms. Fuller-McMahan had been convicted in state court of unlawful possession of heroin. Show Cause Order, at 2.

[3] Respondent argued that the proposed revocation of its DEA registration would violate its right to due process because it was based on the MDHHS suspension, which in turn, was based on the DEA Order to Show Cause and Immediate Suspension of Registration. *See* Response In Opposition To The DEA Motion For Summary Disposition, at 2–5.

Alcohol and Drug Treatment Certificate of Licensure. Reply to Opposition to Gov. Mot. for Summ. Disp., at 2. As support for its position, the Government attached a copy of the State's complaint with supporting exhibits, the summons and return of service, and a draft of an order entitled: Order Relating To Plaintiff's Application For Temporary Suspension Of License Pending Judicial Review. However, absent from the evidence was a court order extending the revocation of Respondent's state license.

On October 6, 2010, the ALJ issued her recommended decision. Notwithstanding that the temporary suspension ordered by the Director of the MDHHS was due to expire on the following day and could not be extended without a court order, the ALJ granted the Government's motion for summary disposition on the ground that it was undisputed that Respondent "lacks the authority to currently handle controlled substances under state law," and thus, it was not entitled to maintain its DEA registration. ALJ at 5–6. The ALJ therefore recommended that Respondent's registration be revoked. *Id.* at 10.

On October 27, 2010, the ALJ forwarded the record to the Administrator's Office for final agency action. However, at no time did the Government move to supplement the record with evidence showing that the state court had extended the suspension of Respondent's state license.

Upon review of the record, the former Administrator noted that Respondent's DEA registration had expired on November 30, 2010. A subsequent query of the Agency's registration records determined that Respondent had not filed a renewal application. Moreover, public records of the State indicated that Respondent was no longer in business. Accordingly, the former Administrator directed the parties to address why the case was not moot and to specifically identify what collateral consequence existed which precluded a finding of mootness. Order of the Administrator (Sept. 20, 2011), at 1–2 (citing *RX Direct Pharmacy, Inc.*, 72 FR 54070 (2007)).

Only the Government filed a response. Therein, the Government noted that upon service of the Immediate Suspension Order, it "seized and placed under seal various controlled substances from Respondent's facility." *Id.* at 1 (citing Affidavit of DI). According to the DI, the Agency seized 121 unopened 500 ml bottles of methadone 10mg/ml; 18 opened 500 ml bottles of methadone 10mg/ml "containing various amounts of methadone"; and 23 individual "take home" doses of methadone. GX 10, at 3.

Noting that under the Controlled Substances Act, " '[a]ll right, title and interest in' any controlled substances seized pursuant to a suspension order 'vests in the United States upon a revocation order being[sic] final' and 'shall be forfeited to the United States,' " the Government argued that if the case "is declared moot and dismissed, title to the controlled substances will be left undetermined." *Id.* (quoting 21 U.S.C. 824(f)). The Government further noted that " 'DEA has previously held that "a litigant cannot defeat the effect of this provision by simply allowing its registration to expire." ' " *Id.* (quoting *East Main Street Pharmacy*, 75 FR 66149 (2010) (other citation omitted)). *Id.* The Government thus maintained that the "case remain[ed] a live controversy" and requested the issuance of a final order. *Id.* at 2.

Upon review of the matter, the former Administrator agreed with the Government that the case was not moot. Order Remanding for Proceedings, at 6 (May 20, 2013). She concluded, however, that a final order based on Respondent's lack of state authority could not resolve the issue of title to the drugs that were seized for two reasons. First, she explained that the Immediate Suspension Order, which provided authority for the seizure, was not based on Respondent's lack of state authority. *Id.* at 6. Second, she observed that "even if a subsequent loss of state authority could be used to support the forfeiture of drugs which have been seized based on entirely different factual allegations and legal grounds, the Government [was] not entitled to prevail" because the "contention that Respondent lacked state authority was not supported by substantial evidence." *Id.* at 7. The former Administrator then observed that the MDHHS' suspension order was due to expire the day after the ALJ issued her recommended decision (and even before the record was forwarded to the Administrator's Office) and that while the Government had submitted a copy of the State's complaint which sought to extend the suspension, a summons, and an unsigned proposed order extending the suspension, the Government produced no evidence "that the state court had continued the suspension past the initial thirty days imposed by the MDHHS." *Id.* Because the record did not support the finding required under 21 U.S.C. 824(a)(3), the former Administrator remanded the case for further proceedings consistent with her opinion. *Id.* at 8.

On remand, the ALJ ordered the parties to file and serve their respective prehearing statements. Order for Prehearing Statements (GX 11), at 1. The Government timely complied. Termination Order (GX 12), at 1. Thereafter, Respondent moved to enlarge the time for filing its prehearing statement. *Id.* While the ALJ granted the motion and extended the due date of Respondent's statement by three weeks, Respondent failed to comply. *Id.* Accordingly, twelve days later, the ALJ held, *sua sponte,* that "Respondent ha[d] constructively waived its right to a hearing" and ordered that the hearing be terminated. *Id.* at 2.

Thereafter, the Government submitted a Request for Final Agency Action along with the investigative record to the Administrator's Office. Upon review of the record, the former Administrator adopted the ALJ's finding that Respondent had waived its right to a hearing as to the validity of the Immediate Suspension Order and the seizure of the controlled substances. However, the former Administrator denied the Government's Request for Final Agency Action, reasoning that the public interest provisions of 21 U.S.C. 823(f) and 824(a)(4), which the Government relied on as the source of its authority to immediately suspend Respondent's registration, do not apply to a Narcotic Treatment Program. Order Denying Government's Request for Final Agency Action, at 9 (May 11, 2015).

As the former Administrator explained, Respondent was registered under 21 U.S.C. 823(g)(1). Under this provision, "[t]he Attorney General shall register an applicant to dispense narcotic drugs to individuals for maintenance [and/] or detoxification treatment" if the following three conditions are met:

> (A) if the applicant is a practitioner who is determined by the Secretary to be qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought;
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> (B) if the Attorney General determines that the applicant will comply with standards established by the Attorney General respecting (i) security of stocks of narcotic drugs for such treatment, and (ii) the maintenance of records (in accordance with section 827 of this title) on such drugs; and
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> (C) if the Secretary determines that the applicant will comply with standards established by the Secretary (after consultation with the Attorney General) respecting the quantities of narcotic drugs which may be provided for unsupervised use by individuals in such treatment.

21 U.S.C. 823(g)(1).

The former Administrator explained that in contrast to every other category of registration set forth in section 823, this provision does not grant the Attorney General authority to deny an application upon a determination "that the issuance of such registration . . . would be inconsistent with the public interest." Order Denying Govt.'s Req., at 9 (*comparing* 21 U.S.C. 823(g)(1) *with id.* § 823(f); *see also id.* § 823(a), (b), (c), (d), (e), and (h). The former Administrator also observed that, in contrast to every other category of registration set forth in section 823, Congress did not characterize these three provisions as "factors" to be considered and given discretionary weight "[i]n determining the public interest." Order Denying Govt.'s Req., at 9 (*comparing* § 823(g) *with id.* § 823(f); *see also id.* § 823(a), (b), (c), (d), (e), and (h). Rather, the three subparagraphs of section 823(g)(1) are conditions for registration.

With respect to the Agency's authority to revoke a registration, the former Administrator noted that while 21 U.S.C. 824(a) sets forth five different ground for revoking a registration, it also contains a specific provision which governs the Agency's authority to revoke a registration with respect to a Narcotic Treatment Program. This provision states that:

> A registration pursuant to section 823(g)(1) of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(g)(1) of this title.

Id. § 824(a). So too, section 824(d) provides that "[a] failure to comply with a standard referred to in section 823(g)(1) of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section." *Id.* § 824(d).

The former Administrator noted that section 824(a)(4) authorizes the revocation of a registration upon a finding that a registrant "has committed such acts as would render [its] registration under section 823 of this title inconsistent with the public interest as determined under such section." Order Denying Govt.'s Req., at 7. However, based on the provisions of section 823(g)(1) and the specific provision governing the revocation of an NTP registration for non-compliance with any standard referred to in 823(g)(1), the former Administrator explained that even assuming that the public interest revocation authority of section 824(a)(4) could be invoked in this proceeding, this provision does not grant the Government any additional authority because the determination must be made by reference to the standards set forth in section 823(g)(1). *Id.* at 8–9.

The former Administrator further noted that because Respondent's registration was issued pursuant to section 823(g)(1), it was clear that the public interest standard of section 823(f) has no application in this proceeding. *Id.* at 9. She then held that, consistent with section 824(a), the suspension order could only be sustained if the Government put forward sufficient evidence to support "a finding that the registrant has failed to comply with any standard referred to in section 823(g)(1)." *Id.*

The former Administrator noted, however, that the allegations of the Order to Show Cause and Immediate Suspension Order may, if supported by substantial evidence, establish that Respondent failed to comply with the standards of section 823(g)(1). *Id.* However, because in its Request for Final Agency Action, the Government had not addressed which of the standards had been violated and how so, the former Administrator denied the Government's Request for Final Agency Action. *Id.* Analogizing the Government's Request to a motion for summary judgment, the former Administrator then explained that just as the denial of a motion for summary judgment is an interlocutory order and not a final decision, so too the denial of the Government's Request for Final Agency Action is an interlocutory order and not a final decision of the Agency. *Id.* (citing, *inter alia, R.R. Donnelley & Sons Co.* v. *FTC,* 931 F.2d 430, 431 (7th Cir. 1991) (holding that the denial of a motion for summary judgment is an interlocutory order and not a final judgment)). The former Administrator thus provided the Government with the opportunity to file a successive Request for Final Agency Action. *Id.*

Thereafter, the Government attempted to establish that this matter had become moot because there was no need to determine title to the drugs that were seized pursuant to the ISO. The basis for the Government's contention was that: (1) The drugs had since passed their expiration date, (2) Respondent's successor-in-interest (Ms. Fuller-McMahan) had not responded to a letter from the Special Agent in Charge of the local Field Division which offered her the opportunity to make arrangements for the disposal of the drugs, and (3) in a phone call with an Agency Investigator months later, Ms. Fuller-McMahan permitted the Agency to destroy the drugs. I found, however, that Ms. Fuller-McMahan's actions did not relinquish Respondent's title to the property. Order, at 1–2 (Mar. 16, 2016).

Subsequently, the Government again suggested that the case was moot because it had determined that a creditor (Coastal Enterprises, Inc.) had placed a lien against Respondent assets, and that Coastal had executed a release of its claims against the drugs the Agency had seized. I rejected this as sufficient to establish mootness because the Government continued to acknowledge that Ms. Fuller-McMahan is Respondent's successor-in-interest and because the Government produced no evidence that Coastal had foreclosed on its lien and/or obtained a judgment against Respondent. Order, at 1 (May 4, 2016).

Thereafter, the Government resubmitted its Request for Final Agency Action. *See* Second Req. for Final Agency Action. Ms. Fuller-McMahan also submitted a letter to me stating that she has in her "possession documents and recordings that refute these allegations." Letter from Angel Fuller-McMahan to the Acting Administrator (May 20, 2106). However, Ms. Fuller-McMahan did not provide either the documents or the recordings, and in any event, the former-Administrator remanded this matter to the Office of Administrative Law Judges for the express purpose of allowing Respondent to challenge the Suspension Order. While Respondent initially indicated its intent to participate in the hearing, it failed to comply with the ALJ's Order and file a Prehearing Statement. As a result, the ALJ found that Respondent had waived its right to a hearing and terminated the proceeding. Thereafter, the former Administrator adopted the ALJ's waiver finding. Order Denying Government's Request for Final Agency Action, at 6 (May 11, 2015). Ms. Fuller-McMahan has offered no reason to reconsider that finding. Accordingly, based on the Investigative File submitted by the Government, I make the following finding of fact.

Findings

Respondent, an administratively-dissolved corporation, was formerly registered as a Narcotic Treatment Program under 21 U.S.C. 823(g)(1). Ms. Angel Fuller-McMahan was the owner of the corporation.

On August 31, 2001, Ms. Fuller-McMahan, following her entry into a plea agreement, was convicted by the Maine Superior Court of the unlawful possession of heroin and given a suspended sentenced of two years imprisonment and one year of probation. GX 3, at 1. She also enrolled in a methadone maintenance program. *Id.*

On October 18, 2007, Ms. Fuller-McMahan filed a new application on behalf of Respondent for registration as a Narcotic Treatment Program. *Id.* On June 13, 2008, Ms. Fuller-McMahan entered into Memorandum of Agreement (MOA) with DEA's New England Field Division, pursuant to which the Agency granted Respondent's application subject to certain conditions. *Id.* at 1–2. As relevant here, these included that: (1) Ms. Fuller-McMahan "is prohibited from ordering any controlled substances and will execute a power of attorney authorizing one of her management staff to order the controlled substances"; (2) that "the same management staff will" execute Respondent's renewal applications; (3) Ms. Fuller-McMahan "will not have physical access to the registered location" or "any keys or codes to the alarm system"; (4) Ms. Fuller-McMahan "will not be enrolled as a client of" Respondent and "will not guest dose at [it] under any circumstances." *Id.* at 1. The MOA further provided that "[v]iolations of the terms . . . may result in an order to show cause to revoke, or revoke and immediately suspend" its DEA registration, and that in any such proceeding, "DEA reserves the right to introduce into evidence . . . this Agreement and violations of this Agreement." *Id.* at 1–2. On June 23, 2008, the then Special Agent in Charge of the Field Division approved the MOA, *id.* at 2, and on July 1, 2008, Respondent's application was approved. GX 2, at 2.

On December 11, 2008, J.C., a pharmacist, executed a state board application to become Respondent's new Pharmacist-in-Charge. GX 16, at 1. On the application, J.C. listed Ms. Fuller-McMahan as an "authorized person." *Id.* at 6. According to a regulation of the Maine Board of Pharmacy, "[a]n 'authorized person' is a person other than a pharmacy technician (*e.g.*, computer technician, bookkeeper) who the pharmacist in charge has designated to be present in the prescription filling area in the absence of a pharmacist." GX 17, at 1 (copy of 02–392 CMR Ch. 1, § 1).

According to the affidavit of a Supervisory Special Agent with the Maine Drug Enforcement Agency (MDEA), on November 3, 2009, he "interviewed M.K., a former patient" of Respondent. GX 15, at 2. The Agent further explained that M.K. had called him "and requested to speak to [him] in exchange for consideration with M.K.'s pending drug charges." *Id.* The Agent further explained that an interview was arranged and that "no promises were made to M.K. in exchange for any information she might divulge." *Id.*

According to the Agent, during her interview, M.K. stated that Ms. Fuller-McMahan had "approached her and asked her to procure cocaine for which [Fuller-McMahan] would be willing to trade methadone purchased on behalf of" Respondent. *Id.* M.K. further stated that Ms. Fuller-McMahan had said "that she intended to create a falsified order for methadone to be purchased by" Respondent for the purported use by prisoners at the county jail "for drug treatment," and that she would trade this methadone for cocaine. *Id.*

The Agent also averred that M.K. had named two other persons who were obtaining methadone at Respondent for drug treatment and selling it. *Id.* According to the Agent, "M.K. stated she had purchased controlled substances from these" two persons. *Id.* The Agent did not, however, clarify whether M.K. had purchased methadone from these persons. While according to the Agent, M.K. offered to perform undercover buys from these persons, the Agent offered no evidence that any such buys were performed. Moreover, no further evidence was provided establishing that Respondent was improperly dispensing methadone to these two persons. *See* 42 CFR 8.12(i) (regulations governing "[u]nsupervised or 'take home use'").

In his affidavit, the Agent testified that on July 13, 2010, Ms. Fuller-McMahan was arrested and charged with Possession of Cocaine, a felony offense under Maine Law. *Id.* at 1 (citing 17–A M.R.S.A. § 1107–A). The Agent further stated that Ms. Fuller-McMahan was in possession of "approximately 25 grams of powdered cocaine" and two syringes which she had obtained from J.R., a patient of Respondent, who performed an undercover sale for the MDEA. *Id.*

After her arrest, Ms. Fuller-McMahan waived her Miranda rights and was interviewed by the Agent; a video recording of the interview was provided by the Government. During the interview, Ms. Fuller-McMahan stated that she intended to deliver the cocaine to C.G., a drug and alcohol counselor employed by Respondent. *Id.* She also "admitted that she was using cocaine and had ingested cocaine in the last three weeks." *Id.* During the interview, Ms. Fuller-McMahan asked the Agent: "can you charge me with something else? Less? . . . If I agree to not go into Turning Tide . . . or to fight it, ever . . . back out completely?" *Id.* at 2.

Thereafter, the State charged Ms. Fuller-McMahan with two counts of unlawful possession of a scheduled drug. GX 4, at 1. Ms. Fuller-McMahan pled guilty to one of the counts, and on October 28, 2010, Ms. Fuller-McMahan was convicted by the Superior Court of a single count of unlawful possession of a scheduled drug. *Id.* The court sentenced Ms. Fuller-McMahan to 364 days in the county jail, but suspended all but 30 days of the sentence; the court also placed her on probation for a period of one year. *Id.*

On some date which is not clear from the evidence, Respondent, through its attorney, surrendered its state licenses to operate an Opioid Treatment Program and Outpatient Substance Abuse Services; Respondent also surrendered its pharmacy license. GX 5. Respondent also allowed its registration to expire.[4]

Discussion

As previously held, because Respondent's registration has expired, and there is no application to act upon, the only issue remaining in the proceeding is whether the Government can claim title to the controlled substances it seized pursuant to the authority granted by the Immediate Suspension Order. *See S & S Pharmacy, Inc.*, 78 FR 57656, 57659 (2013); *RX Direct Pharmacy, Inc.*, 72 FR 54070, 54072 (2007). Pursuant to 21 U.S.C. 824(f),

> In the event the Attorney General suspends or revokes a registration under section 823 of this title, all controlled substances . . . owned or possessed by the registrant pursuant to such registration at the time of suspension or the effective date of the revocation order, as the case may be, may, in the discretion of the Attorney General, be placed under seal. . . . Upon a revocation order becoming final, all such controlled substances . . . shall be forfeited to the United States; and the Attorney General shall dispose of such controlled substances . . . in accordance with section 881(e) of this title. All right, title, and interest in such controlled substances . . . shall vest in the United States upon a revocation order becoming final.

DEA has previously held that a registrant, whose property has been seized pursuant to an Immediate Suspension Order, cannot defeat the effect of this provision by allowing its registration to expire. *See, e.g., Meetinghouse Community Pharmacy, Inc.*, 74 FR 10073, 10076 n.5 (2009).

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[4] The Government put forward no evidence in support of the allegation that Respondent "continues to employ Ms. Fuller-McMahan's husband . . . despite the fact that [he] has been convicted of illegal drug possession and has access to Respondent's controlled substances and confidential patient information." GX 1, at 2. Nor did it put forward any evidence as to the allegations that she had engaged in three other illegal purchases of cocaine with another of Respondent's patients.

As explained above, section 824(a) sets forth a specific provision which grants the Agency authority to suspend or revoke the registration of a Narcotic Treatment Program. This provision states that:

> A registration pursuant to section 823(g)(1) of this title to dispense a narcotic drug for maintenance treatment or detoxification treatment may be suspended or revoked by the Attorney General upon a finding that the registrant has failed to comply with any standard referred to in section 823(g)(1) of this title.

Id. § 824(a). So too, section 824(d) provides that "[a] failure to comply with a standard referred to in section 823(g)(1) of this title may be treated under this subsection as grounds for immediate suspension of a registration granted under such section." *Id.* § 824(d). Thus, consistent with section 824(a), the former Administrator held that the suspension order can only be sustained if the Government puts forward sufficient evidence to support "a finding that the registrant has failed to comply with any standard referred to in section 823(g)(1)."

Of the three standards for registration as an NTP set forth in 21 U.S.C. 823(g)(1), the Government invokes only subparagraph B. It authorizes "the Attorney General [to] determine[] that the applicant will comply with *standards established by the Attorney General* respecting (i) security of stocks of narcotic drugs for such treatment, and (ii) the maintenance of records (in accordance with section 827 of this title) on such drugs." 21 U.S.C. 823(g)(1)(B) (emphasis added).

The Government argues that "Ms. Fuller-McMahan's conduct demonstrated that she was a security threat to [Respondent] and, accordingly, a security risk to its stocks of controlled substances." Second Request for Final Agency Action, at 10. It further argues that her "continued ownership and control over Respondent's clinic constituted an imminent danger to the public health or safety." *Id.* (citing 21 U.S.C. 824(d)). And it argues that "[b]y permitting Ms. Fuller-McMahan to act as Turning Tide's director and continue to have control over the drug treatment facility, Respondent failed to comply with standards respecting the 'security of stocks of narcotic drugs for . . . treatment,' " and thus violated section 823(g)(1)(B). *Id.* at 11.

Invoking the terms of the MOA, the Government argues that "the evidence paints a far different picture of Ms. Fuller-McMahan's involvement in [Respondent] than that contemplated by" the MOA. *Id.* First, the Government argues that Ms. Fuller-McMahan admitted that she remained Turning Tide's director. *Id.* The Government does not, however, point to any provision of the MOA which prohibited Ms. Fuller-McMahan from acting as Turning Tide's director.

Stronger is the Government's claim that Ms. Fuller-McMahan violated the MOA because she was entering its physical premises. The MOA specifically prohibited her from "hav[ing] physical access to the registered location," GX 3, at 1; and as found above, during the interview which followed her arrest, Ms. Fuller-McMahan clearly tried to negotiate a lesser charge for agreeing not to go into the clinic. *See id.* Moreover, the Government produced the application filed by Respondent's PIC, in which he designated her as an "authorized person," GX 16, at 4; which under Maine's regulation authorized her "to be present in the prescription filling area in the absence of a pharmacist." GX 17.

Yet there is no evidence that Ms. Fuller-McMahan ever actually entered the pharmacy or that she possessed the keys or the alarm code for the pharmacy.[5] *See, e.g.,* 21 CFR 1301.72(d) ("The controlled substances storage areas shall be accessible only to an absolute minimum of specifically authorized employees."). Thus, while the evidence supports a finding that Ms. Fuller-McMahan had access to the clinic and thus violated the MOA, by itself, this conclusion does not support a finding that Respondent posed "an imminent danger to the public health or safety," 21 U.S.C. 824(d), as is required to support the Order of Immediate Suspension.

The Government further argues that "[b]y executing a renewal application in direct violation of the MOA . . . Ms. Fuller-McMahan also provided herself with the legal means to order controlled substances . . . and therefore carry out the scheme she had proposed to M.K." *Id.* at 11 (citing 21 CFR 1305.11(c); other citations omitted). While the Government then acknowledges that "there is no evidence that this particular transaction took place," *id.*, it notes that Ms. Fuller-McMahan was arrested and convicted for possessing cocaine which she had obtained from a patient and intended to deliver to an employee. *Id.* at 11–12.

The Government then argues that "Ms. Fuller-McMahan was predisposed to continue to engage in drug trafficking which *could have involved* trading Respondent's stocks of narcotic substances for cocaine" and that "[h]er behavior in this regard independently confirms her intent to purchase illegal substances with narcotic drugs slated for legitimate drug treatment." *Id.* at 12 (emphasis added). And arguing that her "past performance is the best predictor of future performance," the Government asserts that Ms. Fuller-McMahan's conduct "demonstrated a high likelihood that she would find a way to divert Respondent's supply of methadone in exchange for illegal drugs[,]" and "[t]hus, her continued access, ownership, and control over Respondent's business constituted an imminent threat to the public health or safety." *Id.* (int. quotations and citation omitted).

Under DEA's regulation which is applicable to "all registrants," Respondent was required to "provide effective controls and procedures to guard against theft and diversion of controlled substances." 21 CFR 1301.71(a). *See also* 21 CFR 1301.72(d). Thus, substantial evidence that Ms. Fuller-McMahan was obtaining methadone from Respondent's stocks and trading it for other drugs would clearly establish Respondent's non-compliance with a standard established under 21 U.S.C. 823(g)(1)(B) and would clearly support the requisite finding that its continued registration posed an imminent danger to public health or safety as required by 21 U.S.C. 824(d). The Government, however, has not produced such evidence.

The Government points to Ms. Fuller-McMahan's execution of the renewal application. It argues that Ms. Fuller-McMahan did this to "provide[ ] herself with the legal means to order controlled substances." Second Request, at 11. Yet the Government has not produced a single order form (DEA–222) that Ms. Fuller-McMahan executed on behalf of Respondent or any other evidence that she was ordering methadone.

The Government also points to Ms. Fuller-McMahan's alleged proposal to provide methadone to M.K. in exchange for cocaine as support for its assertion that she "was predisposed to continue to engage in drug trafficking which could have involved trading Respondent's stocks of narcotic substances for cocaine." *id.* at 12. This fails too, as notwithstanding Respondent's waiver of its right to challenge the Immediate Suspension Order, the Agency's Order in this matter must be supported by "reliable, probative, and substantial evidence." 5 U.S.C. 556.

Under the Agency's rules, Respondent's waiver of its right to a hearing does not constitute an admission of the allegations. Thus, the Government had the burden of proving its claim that Ms. Fuller-McMahan was likely to trade Respondent's methadone for cocaine.

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[5] The record contains no evidence of interviews of any employees who might have observed her entering the pharmacy.

However, the Government's evidence as to the alleged proposal of Ms. Fuller-McMahan to trade methadone to M.K. in exchange for cocaine is so lacking in indicia of reliability that it does not support the requisite finding under section 823(g)(1). Notably, M.K.'s statement is hearsay,[6] and there is no evidence that M.K., who has not been identified, was under oath when she provided the statement. Also, the MDEA Agent acknowledged that M.K. had offered "to speak to [him] in exchange for consideration with M.K.'s pending drug charges." GX 15, at 2. Notwithstanding that the MDEA Agent further explained that "no promises were made to M.K. in exchange for any information she might divulge," informants typically do not provide information without some expectation of receiving favorable treatment and have ample motive to shade their statements. Nor did the MDEA Agent's affidavit provide any additional facts tending to establish that M.K. had provided reliable information in other matters, or that the information M.K. provided regarding Ms. Fuller-McMahan was otherwise corroborated.[7]

In short, this type of statement has been traditionally viewed by the courts as inherently unreliable, and as such, M.K.'s statement cannot be given any weight in this decision. *See, e.g., Carlos Gonzales,* 76 FR 63118, 63119–20 (2011). And even if the Government had established that M.K.'s statement was reliable, this interview, which occurred more than nine months prior to the issuance of the Immediate Suspension Order, could not support a finding of imminent danger and the subsequent seizure of the drugs.[8] *See, e.g., Norman Bridge Drug Co.* v. *Banner,* 529 F.2d 822, 829 (5th Cir. 1976).

Thus, the only evidence which arguably supports the Immediate Suspension Order and seizure of Respondent's methadone stock is the arrest of Ms. Fuller-McMahan for the possession of cocaine and the syringes, which she had received from J.R., a patient at Respondent, and which Ms. Fuller-McMahan admitted she intended to provide to C.G., a counselor at Respondent. Yet even here, there is no evidence that Ms. Fuller-McMahan either traded methadone for the cocaine she received from J.R. or that she intended to provide the cocaine to C.B. for methadone.

Moreover, notwithstanding M.K.'s allegation, there is no evidence that the Government ever audited Respondent's recordkeeping to determine whether Respondent's methadone was missing or that it developed any reliable evidence that Ms. Fuller-McMahan was diverting methadone. *See* 21 U.S.C. 823(g)(1)(B). Nor did the Government produce any evidence that Respondent's recordkeeping was inadequate.[9] *Id.* In short, while the Government has established that Ms. Fuller-McMahan violated the MOA and this would have supported the issuance of an Order to Show Cause, the Government's principal justification for immediately suspending Respondent's registration and seizing the drugs is not supported by substantial evidence but rests on a hunch. Accordingly, I hold that the Immediate Suspension Order is *ultra vires* and the resulting seizure of Respondent's methadone was unlawful. *See Norman Bridge,* 529 F.2d at 828 ("Such a suspension, or such a seizure, may be invoked *only* to avoid imminent danger to the public health and safety. In the absence of that factor there can be no suspension and no seizure without notice and an opportunity to be heard.").[10]

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and (d), I hereby declare the Order of Immediate Suspension issued to Turning Tide, Inc., *ultra vires.* This Order is effective immediately.

Dated: July 15, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–17245 Filed 7–20–16; 8:45 am]

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[6] While M.K.'s statement is actually hearsay within hearsay, I have no reason to question the MDEA Agent's recounting of the facts surrounding M.K.'s agreeing to provide the statement or that he has accurately testified as to the substance of M.K.'s statement.

[7] Likewise, the Government did not produce the entirety of M.K.'s statement and thus, there is no way to evaluate the internal consistency of the statement.

[8] The record does not establish when the MDEA Agent first told DEA about M.K.'s allegations.

[9] The Government also argues that "there was no evidence that Respondent's employees . . . were taking any steps to minimize that risk," *i.e.,* the risk that Ms. Fuller-McMahan was diverting Respondent's methadone. Second Req. for Final Agency Action, at 14. However, the Government has the burden of proving that Respondent's methadone was being diverted. Moreover, it bears noting that under the Maine Board of Pharmacy's rules, Respondent was required to have a licensed pharmacist overseeing its pharmacy, and "[t]he pharmacist in charge is responsible legally and professionally for all activities related to the practice of pharmacy within the opioid treatment program for which the licensee is registered as pharmacist in charge, and for the opioid treatment program's compliance with . . . federal and state laws and rules," including the CSA and DEA regulations. 02–392 CMR 36 § 4; *see also* 02–392 CMR 29 § 1.

[10] In a June 29, 2015 letter, the Special Agent in Charge of the New England Field Division wrote to Ms. Fuller-McMahan that "[a]lthough the controlled substances were seized pursuant to an Immediate Suspension Order, they are also being held by virtue of the fact that your registration expired on November 30, 2010, resulting in your not having any authority to handle controlled substances." However, to the extent the Government retained possession of the controlled substances based on the expiration of Respondent's registration, 21 U.S.C. 824(g) provides that:

> [s]uch controlled substances . . . shall be held for the benefit of the registrant, or his successor in interest. The Attorney General shall notify a registrant, or his successor in interest, who has any controlled substance . . . seized or placed under seal of the procedures to be followed to secure the return of the controlled substance . . . and the conditions under which it will be returned. The Attorney General may not dispose of any controlled substance . . . seized or placed under seal under this subsection until the expiration of one hundred and eighty days from the date such substance . . . was seized or placed under seal.

21 U.S.C. 824(g). The Government has provided no evidence that it complied with the procedures required by this subsection. Accordingly, the propriety of the seizure must be evaluated under the standards of subsection 824(d) and (f).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 16–12]

James Dustin Chaney, D.O.; Decision and Order

On November 13, 2015, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to James Dustin Chaney, D.O. (Respondent), of Hazard, Kentucky. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration BC8483430, pursuant to which he is authorized to dispense controlled substances in schedules II through V, and the denial of any pending applications to renew or modify his registration or for any other registration, on the ground that he does not have authority to handle controlled substances in Kentucky, the State in which he holds his DEA registration. Show Cause Order, at 1 (citing 21 U.S.C. 823(f); 824(a)(3)).

The Show Cause Order alleged that Respondent is registered as a practitioner with authority to dispense schedule II through V controlled substances at the registered location of 1908 North Main Street, Hazard, KY. *Id.* The Order further alleged that while Respondent's registration was due to expire on August 31, 2015, on August 25, 2015, he filed a timely renewal application and thus, his registration remains in effect until the issuance of this Final Order. *Id.* (citing 5 U.S.C. 558(c); 21 CFR 1301.13(b)).

As for the factual basis for the proposed action, the Show Cause Order alleged that on August 22, 2014, the Kentucky Board of Medical Licensure had affirmed the Emergency Order of Suspension which was issued to Respondent on June 30, 2014. *Id.* While the Show Cause Order acknowledged that the suspension of Respondent's license to practice osteopathic medicine had been subsequently vacated, it further alleged that to the extent the Emergency Order had suspended Respondent's authority to dispense controlled substances, this prohibition remains in effect. *Id.* at 1–2. The Show Cause Order thus alleged that Respondent is currently without authority to dispense controlled substances in Kentucky, and therefore, his registration is subject to revocation. *Id.* at 2 (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).

On November 23, 2015, the Show Cause Order, which also notified Respondent of his right to request a hearing on the allegations, was served on Respondent by certified mail, return receipt requested. On December 16, 2015, Respondent, through his counsel, requested a hearing; the matter was placed on the docket of the Office of Administrative Law Judges and assigned to Chief Administrative Law Judge (CALJ) John J. Mulrooney, II. The next day, the CALJ ordered the Government to file evidence supporting the allegation and a motion for summary disposition by December 31, 2015; in the event the Government filed a motion, the CALJ directed Respondent to file its reply by January 15, 2016.

On December 21, 2015, the Government filed its Motion for Summary Disposition. As support for its motion, the Government attached a copy of the Board's June 30, 2014 Emergency Order of Suspension and the Board's August 22, 2014 Findings Of Fact, Conclusions Of Law, And Final Order. Thereafter, Respondent filed a "Response [t]o Government's Motion for Summary Judgment."

On January 19, 2016, the CALJ granted the Government's motion, finding that there was no dispute as to the material fact that Respondent is without authority to handle controlled substances in Kentucky, and that therefore, Respondent "is not entitled to maintain his DEA registration." Order Granting Government's Motion for Summary Disposition and Recommended Ruling, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge, at 5–6. The CALJ further recommended that Respondent's registration be revoked and that any pending application to renew his registration be denied. *Id.* at 6.

Neither party filed exceptions to the CALJ's decision. Thereafter, the record was forwarded to me for Final Agency Action. Having considered the record in its entirety, I have decided to adopt the ALJ's factual findings, legal conclusions and recommended sanction. I make the following findings.

Findings

Respondent is the holder of DEA Certificate of Registration BC8483430, pursuant to which he is authorized to dispense controlled substances in schedules II through V as a practitioner at the registered address of Mountain After Hours Clinic, 1908 North Main Street, Hazard, KY 41701. Mot. for Summ. Disp., at Attachment 1. While this registration was due to expire on August 31, 2015, on August 25, 2015, Respondent submitted a renewal application. *Id.* Thus, Respondent's registration remains active pending the issuance of this Decision and Order. 5 U.S.C. 558(c).

Respondent is also the holder of a license to practice osteopathy issued by the Kentucky Board of Medical Licensure. Mot. for Summ. Disp., Attachment 3, at 1. However, "[o]n or about June 5, 2014," Respondent "was indicted on two (2) counts of knowingly and intentionally conspiring to distribute and unlawfully dispense Schedule II and III controlled substances," in violation of 21 U.S.C. 841(a)(1) and 846. *Id.* Respondent was also "indicted on one (1) count of having knowingly open[ed], lease[d], rent[ed], use[d] and maintain[ed] a place (to wit [a pain management clinic]) . . . for the purpose of distributing and unlawfully dispensing controlled substances . . . in violation of 21 U.S.C. 856(a)(1)." *Id.* at 2.

Based on the above, the Board's Inquiry Panel found, *inter alia,* that probable cause existed to believe that Respondent had "[e]ngaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof," and that he "[v]iolated or attempted to violate," abetted, or conspired to violate "any medical practice act, including . . . any other valid regulation of the board." *Id.* (citing Ky. Rev. Stat. § 311.595(9) & (12)). The Inquiry Panel further noted that under the Board's regulations, "[i]f a licensee is indicted in any state for a crime classified as a felony in that state and the conduct charged relates to a controlled substance, that licensee's practice shall be considered an immediate danger to the public health, safety, or welfare," and that upon "receiv[ing] verifiable information that a licensee has been indicted" for such a felony, "the inquiry panel . . . shall immediately issue an emergency order suspending or restricting that licensee's Kentucky license." *Id.* at 3 (quoting 201 Ky. Admin. Regs. 9:240, § 3). The Inquiry Panel thus ordered that Respondent's license to practice osteopathy be suspended. *Id.* at 4.

Thereafter, Respondent sought judicial review of the Emergency Order of Suspension in state court. Mot. for Summ. Disp., at Attachment 4, at 9. He also requested an administrative hearing to challenge the Emergency Suspension. *Id.* at 1.

On August 11, 2014, the state court issued a temporary injunction which enjoined the Board from enforcing the suspension. *Id.* at 9. The state court, however, "kept in place the prohibition against [Respondent's] prescribing, dispensing, or otherwise utilizing a controlled substance . . . pending the issuance of" the Board's Order. *Id.*

On August 15, 2014, a Hearing Officer conducted a hearing at which Respondent was allowed to challenge the Emergency Suspension. *Id.* at 1. Following the hearing, the Hearing Officer found that "there is probable cause to believe [Respondent] engaged in misconduct in violation of the Board's statutes and that his practice of medicine constitutes a danger to the health, welfare, and safety of his patients or the general practice." *Id.* at 2. However, consistent with the injunction, the Hearing Officer modified the suspension to allow Respondent to "continue to practice osteopathy," while prohibiting him "from prescribing, dispensing, or otherwise utilizing a controlled substance in Kentucky." *Id.*

According to the online records of the Kentucky Board, the prohibition on Respondent's authority to dispense controlled substances remains in effect as of this date. I therefore find that Respondent is without authority to dispense controlled substances in Kentucky, the State in which he holds his DEA registration.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), "[a] registration . . . to . . . dispense a controlled substance . . . may be suspended or revoked by the Attorney General upon a finding that the registrant . . . has had his State license or registration suspended, revoked, or denied by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' This Agency has further held that notwithstanding that this provision grants the Agency authority to suspend or revoke a registration, other provisions of the Controlled Substances Act ''make plain that a practitioner can neither obtain nor maintain a DEA registration unless the practitioner currently has authority under state law to handle controlled substances.'' *James L. Hooper,* 76 FR 71371, 71372 (2011), *pet. for rev. denied, Hooper* v. *Holder,* 481 F. App'x 826 (4th Cir. 2012).

These provisions include section 102(21), which defines the term ''practitioner'' to ''mean[] a physician . . . licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice,'' 21 U.S.C. 802(21), as well as section 303(f), which directs that ''[t]he Attorney General shall register practitioners . . . to dispense . . . controlled substances . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' *Id.* § 823(f). Based on these provisions, the Agency has long held that revocation is warranted even where a state board has summarily suspended a practitioner's controlled substances authority and the state's order remains subject to challenge in either administrative or judicial proceedings. *See Gary Alfred Shearer,* 78 FR 19009 (2013); *Carmencita E. Gallora,* 60 FR 47967 (1995).

Respondent nonetheless maintains that the proposed revocation of his registration would violate his right to due process because the Hearing Officer applied the wrong standard of proof when he upheld the Emergency Suspension Order. Response to Govt's Mot. for Summ. Judgment, at 4–8. According to Respondent, this is so because in holding that the Suspension Order was justified by Respondent's indictment, the Hearing Officer applied a probable cause standard rather than the substantial evidence standard as required by Kentucky law, and thus, the Hearing Officer's decision is arbitrary and capricious. *Id.* at 5. Respondent argues that he ''established with overwhelming and uncontested evidence that his practice of medicine is NOT a danger to the health, welfare, and safety of his patients or the general public.'' *Id.* And he further argues that ''the Hearing Officer improperly placed the risk of non-persuasion on [him] and applied the [Board's] unconstitutional regulatory provisions allowing an indictment alone to serve as substantial evidence of a violation of law.'' *Id.* at 7.

However, '''DEA has repeatedly held that a registrant cannot collaterally attack the results of a state criminal or administrative proceeding in a proceeding brought under section 304 [21 U.S.C. 824] of the CSA.''' *Calvin Ramsey,* 76 FR 20034, 20036 (2011) (quoting *Hicham K. Riba,* 73 FR 75773, 75774 (2008) (other citations omitted)); *see also Shahid Musud Siddiqui,* 61 FR 14818 (1996); *Robert A. Leslie,* 60 FR 14004 (1995). DEA is not vested with authority to adjudicate either the constitutionality of the Board's Suspension Order, or whether the Board's Order is arbitrary and capricious. Respondent must therefore seek relief from the State Board's Order in those administrative and judicial forums provided by the State.

In a revocation proceeding brought under section 824(a)(3), the only issue is whether a respondent holds current authority to dispense controlled substances. Respondent's various contentions as to the validity of the Board's order are therefore not material to this Agency's resolution of whether he is entitled to maintain his DEA registration. Because it is undisputed that Respondent does not hold authority under the laws of Kentucky to dispense controlled substances, he no longer meets the definition of a practitioner under the CSA and thus, he is not entitled to maintain his registration. *See, e.g., Hooper,* 76 FR at 71372. Accordingly, I will order that Respondent's registration be revoked and that any pending application to renew or modify this registration be denied.

Order

Pursuant to the authority vested in me by 21 U.S.C. 824(a) and 823(f), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration BC8483430 issued to James Dustin Chaney, D.O., be, and it hereby is, revoked. I further order that any application of James Dustin Chaney, D.O., to renew or modify this registration, be, and it hereby is, denied. This Order is effective August 22, 2016.

Dated: July 11, 2016.

Chuck Rosenberg,

Acting Administrator.

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DEPARTMENT OF JUSTICE

Service Contract Inventory; Notice of Availability

SUMMARY: In accordance with Section 743 of Division C of the FY 2010 Consolidated Appropriations Act, Public Law 111–117, the Department of Justice is publishing this notice to advise the public of the availability of its FY 2015 Service Contracts Inventory and Inventory Supplement. The inventory includes service contract actions over $25,000 that were awarded in Fiscal Year (FY) 2015. The inventory supplement includes information collected from contractors on the amount invoiced and direct labor hours expended for covered service contracts. The Department of Justice analyzes this data for the purpose of determining whether its contract labor is being used in an effective and appropriate manner and if the mix of federal employees and contractors in the agency is effectively balanced. The inventory and supplement do not include contractor proprietary or sensitive information.

The FY 2015 Service Contract Inventory and Inventory Supplement is provided at the following link: *https://www.justice.gov/jmd/service-contract-inventory.*

FOR FURTHER INFORMATION CONTACT: Tara M. Jamison, Procurement Policy Review Group, Justice Management Division, U.S. Department of Justice, Washington, DC 20530; Phone: 202–616–3754; Email: *Tara.Jamison@usdoj.gov.*

Dated: July, 19, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–17248 Filed 7–20–16; 8:45 am]

BILLING CODE 4410–DH–P

DEPARTMENT OF LABOR

Office of the Secretary

Privacy Act of 1974; Publication in Full of All Notices of Systems of Records, Including Several New Systems, Substantive Amendments to Existing Systems, Decommissioning of Obsolete Legacy Systems, and Publication of Proposed Routines Uses

AGENCY: Office of the Secretary, Labor.

ACTION: Notice: Response to Comments on the Department's April 29, 2016 System of Records Notice.

SUMMARY: This notice announces a response to public comments on the Department's April 29, 2016 System of

Records Notice. In response to comments, the Department is revising one SORN. That SORN, and the remainder of SORNs published on April 29, 2016, will become effective on the date of publication of this notice.

DATES: The effective date for the Department's System of Records Notice is the date of publication of this notice. Effective Date: The date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Joseph J. Plick, Counsel for FOIA and Information Law, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Room N–2420, Washington, DC 20210, telephone (202) 693–5527, or by email to *plick.joseph@dol.gov.*

Background: On April 29, 2016, the Department of Labor issued a Publication In Full of All Notices of Systems of Records, including several new systems; substantive amendments to systems; decommissioning of obsolete legacy systems; and publication of new universal routine uses for all system of records. The Department received several public comments and one Federal agency comment on this System of Records Notice during the public comment period, which ended June 8, 2016. The Department required additional time to review and address the comments, so, by **Federal Register** notice of June 21, 2016, 81 FR 40352, the effective date was postponed to July 23, 2016.

The Department is now publishing this notice to address the eleven comments to and revise SORN DOL/Central-5 in response to those comments.

Comment: Several comments criticized Universal Routine Use #14, which "permits the Department to disclose information to the United States Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) that will be included in the National Instant Criminal Background Check System (NICS)." The commenters argued that this Routine Use impermissibly infringes on Second Amendment rights. One commenter stated, for example:

> This rule (which refers specifically to 23 executive actions that Obama took on Jan. 16, 2013) infringes on the Second Amendment by having developed through rule, manner in which protected health information (PHI) is now authorized to be released unconstitutionally by HHS to agenc(ies) of the federal government without the affected individual's consent, and the PHI is thus used in a manner to target individuals and unconstitutionally remove access to weapons in connection with NICS.

Response: The Department is required by law—the Brady Handgun Violence Prevention Act, as amended by the NICS Improvement Amendments Act of 2007—to provide information to the Attorney General to carry out its provisions. Therefore, the Department is declining to make changes to Universal Routine Use #14.

Comment: One comment was critical of Universal Routine Use #13, which allows the Department to disclose information to a state or local government agency in charge of issuing licenses to attorneys and health care professionals. The commenter raised the concern that state laws, particularly California's state laws, prohibit information sharing with state and local agencies.

Response: Under the Supremacy Clause, federal law takes precedence over state law. But to the extent that state law in California may apply, the Department has not identified any laws which prohibit the disclosure contemplated by Universal Routine Use #13. On the contrary, California's most broadly applicable privacy law—the Information Practices Act of 1977—explicitly allows sharing "To a law enforcement or regulatory agency when required for an investigation of unlawful activity or for licensing, certification, or regulatory purposes, unless the disclosure is otherwise prohibited by law." The Department declines to make changes in response to this comment.

Comment: Several comments did not specifically reference or provide substantive feedback on any section of the SORN. One commenter stated, for example, "I do not favor the use of funds for rail support that is not directly supportive of General Aviation or Airline services, viz. flights." Another argued "No undocumented alien should have the same ability to sue for discrimination because of their country of origin, as an American Citizen does."

Response: The Department was unable to identify any sections of the SORN relevant to these comments, and, therefore, is making no changes in response.

Comment: Three commenters, including the Office of Government Information Services (OGIS) (within the National Archives and Records Administration (NARA)) suggested changing the text of Routine Use (b) in the DOL/Central-5 SORN, which covers the Department's Freedom of Information Act files, to follow model language drafted by OGIS and to explicitly note that disclosure to OGIS is a permissible routine use for FOIA files. Specifically, the OGIS model language states:

> To the National Archives and Records Administration, Office of Government Information Services (OGIS), to the extent necessary to fulfill its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures and compliance with the Freedom of Information Act (FOIA), and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

Response: The Department agrees that additional language can be helpful to clarify that the scope of permissible disclosures of FOIA files under Routine Use (b) of DOL/Central 5 SORN includes disclosure to OGIS in order to facilitate its responsibilities related to FOIA compliance and mediation. Accordingly, the Department is revising this routine use to incorporate this model language. Routine Use (b) will now read:

> *Information to other Federal agencies (e.g., Department of Justice or the Office of Government Information Services within the National Archives and Records Administration) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence; for use in making required determinations; to fulfill agency responsibilities to review administrative agency policies, procedures, and compliance under the Freedom of Information Act or the Privacy Act of 1974; or to facilitate mediation services between administrative agencies and persons making Freedom of Information requests.*

The SORN will become effective, with the change to DOL/Central-5, on the date of publication of this notice.

Signed at Washington, DC this 15th July, 2016.

Thomas E. Perez,

Secretary of Labor.

[FR Doc. 2016–17209 Filed 7–20–16; 8:45 am]

BILLING CODE 4510–HL–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine

Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before August 22, 2016.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2016–021–C.

Petitioner: The Marshall County Coal Company, 57 Goshorn Woods Road, Cameron, West Virginia 26033.

Mine: Marshall County Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.

Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of 480-volt, three-phase, alternating current submersible pumps to dewater completed ventilation shafts prior to being put into service. The petitioner states that:

(1) The three-phase, 480-volt alternating current electric power circuit for the pump will be designed and installed to:

(a) Contain either a direct or derived neutral wire that will be grounded through a suitable resistor at the source transformer or power center and through a grounding circuit originating at the ground side of the grounding resistor, which will extend along with the power conductor and serve as the grounding conductor for the frame of the pump and all associated electric equipment that may be supplied power from this circuit.

(b) Contain a grounding resistor that limits the ground-fault current to not more than 25 amperes.

(c) The grounding resistor(s) will be rated for the maximum fault current available and will be insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(2) The 480-volt pump circuit will have a suitable circuit interrupting device of adequate interrupting capacity, with devices to protect against under-voltage, grounded phase, short-circuit, and overload.

(3) The under-voltage protection device will operate on a loss-of-voltage to prevent automatic restarting of the equipment.

(4) The grounded phase protection will be provided as follows:

(a) The grounded phase protection device will be set not to exceed 40 percent of the current rating of the neutral grounding resistor.

(b) The 480-volt circuit will also have an undercurrent relay device to prevent closing the breaker when a phase to ground fault condition exists on the system, and a test circuit that will inject a test current through the grounded phase current transformer.

(5) The short-circuit protection device will be set not to exceed the required short-circuit protection for the power cable or 75 percent of the minimum available phase-to-phase short-circuit current, whichever is less.

(6) The circuit will include a disconnecting device located on the surface and installed in conjunction with the circuit breaker to provide a means for visual evidence that the power is disconnected from the pump circuits, and a means to lock and tag-out the system.

(7) The pump power system will include a fail-safe ground check circuit, or other no less effective device approved by MSHA that will cause the circuit breaker to open when either the ground or pilot wire is broken. A manually operated test switch will be provided to verify the operation ground check device. The device will be installed and maintained operable to monitor the ground continuity from the starter box to the pump.

(8) The pump(s) electric control circuit(s) will be designed and installed so that the pump(s) cannot start and/or run in the automatic mode if the water is below the low-water probe level. The low-water probe will be positioned to maintain at least 12 inches above the inlet of the pump and electrical connections of the pump motor. The low-water probe will be suitable for submersible pump control application. All probe circuits will be intrinsically safe. A motor controller will be provided and used for pump startup and shutdown.

(9) The pump installation will be equipped with a water level indicator at the pump circuit controls such that a miner can determine the water level is above the pump inlet and electrical connectors.

(10) The surface pump(s) control and power circuits will be examined as required by 30 CFR 77.502, as follows:

(a) A record of the examinations will be kept in accordance with 30 CFR 77.502 and 77.502–2.

(b) The examinations will include a functional test of the grounded phase protective device(s) to determine proper operation.

(c) A record of the functional tests will be recorded in an electrical equipment record book.

(d) Prior to placing the pump into service an electrical examination will be performed.

(e) Methane checks will be made at the collar of the borehole prior to energizing the pump. The pump will not be energized if 1.0 percent or greater of methane is detected.

(11) The power cable to the submersible pump motor will be suitable for this application and have a current carrying capacity not less than 125 percent of the full load current of the submersible pump motor and an

outer jacket suitable for a "wet location".

(12) Splices and connections made in submersible pump cable will be made in a workmanlike manner and will meet the requirements of 30 CFR 75.604. The pump installations will comply with all other applicable 30 CFR requirements.

(13) The District Manager (DM) will be notified prior to dewatering any shaft using a nonpermissible submersible pump, and the required shaft plan will include this notification.

(14) Within 60 days after this petition for modification is granted, the petitioner will submit proposed revisions for their approved part 48 training plan to the DM. The proposed revisions will specify task training for all qualified electricians who perform electric work and monthly electric examinations as required by 30 CFR 77.502 and refresher training regarding the alternative method outlined in the petition and the terms and conditions stated in the Proposed Decision and Order. The training will include the following elements:

(a) The hazards that could exist if the water level falls below the pump inlet or the electric connections of the pump motor.

(b) The safe restart procedures, which will include the miner determining that the water level is above the pump inlet and pump motor prior to attempting to establish power and start the pump motor.

(15) The procedures of 30 CFR 48.3 for approval of proposed revisions to already approved training plans will apply.

The petitioner further states that:

1. Upon completion of excavation/construction of a shaft, the shaft begins to accumulate water and personnel are never required to go below the collar of the shaft for dewatering purposes.

2. In case there is a blind drilled shaft, the shaft is fully lined with steel casing and is grouted in place. This steel casing and grout seal isolates the completed blind drilled shaft from any coal seams, mitigating any possibility for methane to enter the blind drilled shaft.

3. In the case of a conventionally constructed shaft, ventilation devices are installed to ensure that potential methane accumulations are mitigated. Dewatering significantly minimizes the chance of these devices becoming compromised. The electric motor of any submersible pump is located below the pump intake making it impossible for the motor to be above the surface of the water.

4. Currently there are no electric submersible motor/pump assemblies manufactured that will effectively pump water at the current and future depths of mine workings that are permissible as required by 30 CFR 77.1914(a).

5. The alternative method outlined in this petition is consistent with prudent engineering design pursuant to 30 CFR 77.1900 since it minimizes the hazards to those employed in the initial or subsequent development of the shaft.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2016–022–C.

Petitioner: ACI Tygart Valley, 1200 Tygart Drive, Grafton, West Virginia 26354.

Mine: Leer Mine, MSHA I.D. No. 46–09192, located in Taylor County, West Virginia.

Regulation Affected: 30 CFR 75.1904(b)(6) (Underground diesel fuel tanks and safety cans).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to allow the use of a Brookville diesel motor in a dual role as a motor/diesel fuel transportation unit.

The petitioner seeks modification of the existing standard as it applies to the requirement for a shut-off valve in the return line from the motor's engine back to the fuel tank. Use of a shut-off valve in the return line may pose a risk to the motor's operation and emissions and is not related to fuel dispensing. All other required shut-off valves are installed on the connections as close as practicable to the tank's shell. The petitioner proposes to:

(1) Equip the Brookville diesel motor with a fuel tank constructed of 3⁄16-inch steel plates designed to serve as both the motor's fuel tank and fuel dispensing tank. The tank is equipped with a pump that can only dispense 50 percent of the tank's capacity, which will ensure the motor's fuel supply cannot be completely depleted.

(2) Shut off the motor's engine during the fueling process to eliminate unnecessary idling. The 8-gallons per minute fuel dispensing pump will operate using a separate battery power source that has been added to supply pump power. The fuel dispensing hose is a 50-foot hose with a no-latch open device and a self-closing valve. There is a power supply switch at the pump's nozzle storage bracket as well as an emergency shut-off switch located above the fuel tank. The emergency switch is protected by a cover that automatically ensures that the switch is in the off position any time the cover is closed.

(3) Post the following fueling procedures on the fuel tank:

—Make sure the fueling sign is hung and the motor's engine is shut off.
—Inspect fire extinguishers prior to beginning the fueling process.
—Ensure that fire extinguishers are located outby the fueling point.
—Verify fuel hose, equipment, etc. are in good condition.
—Test for methane in the atmosphere.
—Check for potential ignition sources and other hazards in the area.
—Notify the mine dispatcher before starting.
—Unlock and open the emergency shut-off switch.
—Check for any spills after the fueling is complete.
—Shut off the emergency switch and close locked cover.
—Notify the mine dispatcher after completion.

(4) Equip the tank with a 4-inch vent designed to open at a pressure not to exceed 2.5 pounds per square inch, as required by 30 CFR 75.1904(b).

(5) Identify and mark tank openings and pressure-test the tank, fittings and components.

(6) Equip the pump dispensing line and fuel supply lines with shut-off valves, as required by 30 CFR 75.1904(b)(6).

(7) Equip the pump dispensing line with an anti-siphoning device, as required by 30 CFR 75.1905(b)(iii).

(7) Provide the pump dispensing line with a self-closing valve with no latch-open device, as required by 30 CFR 75.1905(b)(3)(ii).

(8) Install additional fire suppression and detection to ensure that the system protects and meets all of the requirements of 30 CFR 75.1911.

Petitioner states that at no time will the motor be operated unattended, in accordance with 30 CFR 75.1916(e).

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2016–023–C.

Petitioner: UtahAmerican Energy, Inc., 794 North "C" Canyon Road, P.O. Box 910, East Carbon, Utah 84520.

Mine: Lila Canyon Mine, MSHA I.D. No. 42–02241, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings or longwall faces. The petitioner states that:

(1) The use of nonpermissible low-voltage or battery-powered electronic testing and diagnostic equipment will be limited to: Laptop computers; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current and power measurement devices and recorders; pressure and flow measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic components testers; and electronic tachometers. Other testing and diagnostic equipment may be used if approved in advance by MSHA's District Manager.

(2) Nonpermissible electronic testing and diagnostic equipment will be used only when equivalent permissible equipment does not exist.

(3) All other testing and diagnostic equipment used within 150 feet of pillar workings or longwall faces will be permissible.

(4) All nonpermissible low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment used within 150 feet of pillar workings will be examined by a qualified person as defined in 30 CFR 75.153 prior to use to ensure the equipment is being maintained in a safe operating condition. These examination results will be recorded in the weekly examination electrical equipment book and made available to MSHA on request.

(5) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible electronic testing and diagnostic equipment within 150 feet of pillar workings.

(6) Nonpermissible electronic testing and diagnostic equipment will not be used if methane is detected in concentrations at or above one percent. When 1.0 percent or more of methane is detected while the nonpermissible electronic equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment will be withdrawn to outby 150 feet from pillar workings.

(7) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as required by 30 CFR 75.320.

(8) Except for time necessary to troubleshoot under actual mining conditions, coal production on the section will cease. However, coal may remain in the panline to test and diagnose the equipment under load.

(9) Nonpermissible electronic testing and diagnostic equipment will not be used to test equipment when float coal dust is in suspension.

(10) All electronic testing and diagnostic equipment will be used in accordance with the safe use procedures recommended by the manufacturer.

(11) Qualified personnel who use electronic testing and diagnostic equipment will be properly trained to recognize the hazards and limitations associated with use of the equipment.

(12) The nonpermissible low-voltage or battery-powered nonpermissible electronic testing and diagnostic equipment will not be put into service until MSHA has inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition. The petitioner will notify MSHA before additional nonpermissible electronic testing and diagnostic equipment is put into service within 150 feet of pillar workings to provide time for MSHA to inspect the equipment before initial use.

(13) Cables supplying power to low-voltage testing and diagnostic equipment will be continuous in length or provided with "twist lock" connectors when used with 150 feet of pillar workings.

The petitioner asserts that application of the existing standard will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2016–17174 Filed 7–20–16; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before August 22, 2016.

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.
2. *Facsimile:* 202–693–9441.
3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202–5452, Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or
2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2016–015–C.

Petitioner: Canyon Fuel Company, LLC, HC 35, Box 380, Helper, Utah 84526.

Mine: Skyline mine, MSHA I.D. No. 42–01566, located in Carbon County, Utah.

Regulation Affected: 30 CFR 75.380(d)(4) (Escapeways; bituminous and lignite mines).

Modification Requested: The petitioner requests a modification of the existing standard to permit an escapeway to be maintained at least 4 feet wide where the route of travel passes by conveyor belt components. The petitioner states that:

(1) The standard 6-foot wide walkway specified in 30 CFR 75.380(d)(4) already allows for exceptions to the 6-foot walkway, including where supplemental support is installed and where the escapeways pass through doors. When these two situations arise, the standard 6-foot walkway is reduced to 4 feet. Conveyor belt components such as belt drives, belt storage units and belt transfers may also impinge upon the standard 6-foot walkway. The petitioner proposes to:

(a) Demonstrate that four miners carrying a stretcher could quickly traverse an area at the widths proposed in this petition.

(b) Identify the portions of the alternate escapeway where this petition is in effect on the mine map required by 30 CFR 75.372.

(c) Maintain the full 4-foot width of the escapeway in areas affected by this petition free of accumulations of mud, water, and other hazards at all times.

The petitioner asserts that the proposed alternative method will at all times provide no less than the same measure of protection afford by the existing standard.

Docket Number: M–2016–016–C.

Petitioner: Marshall County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.

Mine: Marshall County Mine, MSHA I.D. No. 46–01437, located in Marshall County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Requested: The petitioner requests that the previously granted petition for modification be amended for the McElroy Coal Company, McElroy Mine, Docket Number M–1988–199–C (now known as the Marshall County Coal Company, Marshall County Mine, MSHA I.D. No. 46–01437). The petitioner states that:

(1) The large majority of petroleum wells in the Marshall County Coal Company Mine were drilled prior to 1930 when no standards for drilling and plugging existed. Many wells were abandoned during that time.

(2) Extensive research conducted by the U.S. Bureau of Mines, Energy Research and Development Administration, MSHA and past experience by Consolidation Coal Company has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

(3) In lieu of establishing and maintaining barriers around oil and gas wells, the petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the affected wells by using technology developed through the petitioner's successful well-plugging program. Since the inception of the well-plugging program, thousands of previously abandoned oil and gas wells have been effectively plugged and successfully been mined through or around.

(4) In lieu of the method of plugging oil and gas wells approved in the previously granted petition, the petitioner proposes an alternative method that incorporates proven technological advances not available for plugging oil and gas wells when the previous petition was granted.

As an alternative method of compliance with 30 CFR 75.1700, the petitioner proposes to maintain a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) around all oil and gas wells (defined to include all active, inactive, abandoned, shut-in, and previously plugged wells, including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM).

Prior to mining through any oil or gas wells, the petitioner will provide to the DM a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by logs described in this petition and any other records that the DM may request. The DM will review the declaration, the logs and any other records that have been requested, and may inspect the well, and determine if the operator has complied with the procedures for cleaning out, preparing and plugging each well. If the DM determines that the procedures have been complied with and provides an approval, the operator may then mine within the safety barrier of the well according to the terms of the Order.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam unless the DM requires cleaning to a greater depth based on what is required due to the geological strata, or due to the pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of well, wall to wall.

(2) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, the operator will maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; the length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(3) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, the operator will cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator can demonstrate to the satisfaction of the DM that all annuli in the well are already adequately sealed with cement

using a casing bond log, then the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), the operator will perforate or rip any casing that remains and fill with expanding cement and keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(4) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the DM requires a greater distance based on what is required due to the geological strata, or due to the pressure within the well. (The operator will provide the DM with all information it possesses concerning the geologic nature of the strata and the pressure of the well.) If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance base on what is required due to the geological strata, or due to the pressure within the well.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM due to the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), the operator will use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to the pressure within the well. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch, and extend the top of the expanding cement at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet (or 400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to pressures within the well.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well. The operator will fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. The operator will provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is insufficient casing in the well to allow use of the method outlined in paragraph (d)(3) above. Fracture the original well in at least six places from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. The operator will pump

expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. The operator will maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(6) After the plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install drivage spads on 10-foot centers for a distance of 50 feet in advance of the well when using longwall-mining methods. The drivage spads will also be installed in the headgate.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. The operator will locate the fire hose in the last open crosscut of the entry or room and maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) On the shift prior to mining through the well, all equipment will be serviced and checked for permissibility. Water sprays, water pressures and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(6) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(7) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through it. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(8) Keep the working place free from accumulations of coal dust and coal spillages, and apply rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(9) When using continuous or conventional mining methods, the working places will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and place on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the well is intersected and thoroughly examine the place and determine it is safe before resuming mining. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. In rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition for modification. The operator will provide all miners involved in the mine-through of a well with training regarding the requirements of this petition for modification prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan.

Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2016–017–C.

Petitioner: The Marion County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.

Mine: Marion County Mine, MSHA I.D. No. 46–01433, located in Marion County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Requested: The petitioner requests that the previously granted petition for modification be amended for the Consolidation Coal Company, Loveridge Mine, Docket Number M–1990–156–C (now known as the Marion County Coal Company, Marion County Mine, MSHA I.D. No. 46–01433). The petitioner states that:

(1) The large majority of petroleum wells in the Marion County Coal Company Mine were drilled prior to 1930 when no standards for drilling and plugging existed. Many wells were abandoned during that time.

(2) Extensive research conducted by the U.S. Bureau of Mines, Energy Research and Development Administration, MSHA and past experience by Consolidation Coal Company has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

(3) In lieu of establishing and maintaining barriers around oil and gas wells, the petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the affected wells by using technology developed through the petitioner's successful well-plugging program. Since the inception of the well-plugging program, thousands of previously abandoned oil and gas wells have been effectively plugged and successfully been mined through or around.

(4) In lieu of the method of plugging oil and gas wells approved in the previously granted petition, the petitioner proposes an alternative method that incorporates proven technological advances not available for plugging oil and gas wells when the previous petition was granted.

As an alternative method of compliance with 30 CFR 75.1700, the petitioner proposes to maintain a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) around all oil and gas wells (defined to include all active, inactive, abandoned, shut-in, and previously plugged wells, including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM).

Prior to mining through any oil or gas wells, the petitioner will provide to the DM a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by logs described in this petition and any other records that the DM may request. The DM will review the declaration, the logs and any other records that have been requested, and may inspect the well, and will then determine if the operator has complied with the procedures for cleaning out, preparing and plugging each well. If the DM determines that the procedures have been complied with and provides an approval, the operator may then mine within the safety barrier of the well according to the terms of the Order.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam unless the DM requires cleaning to a greater depth based on what is required due to the geological strata, or due to the pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of well, wall to wall.

(2) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; the length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(3) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, the operator will cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator can demonstrate to the satisfaction of the DM that all annuli in the well are already adequately sealed with cement using a casing bond log, then the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), the operator will perforate or rip any casing that remains and fill with expanding cement and keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(4) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the DM requires a greater distance based on what is required due to the geological strata, or due to the pressure within the well. (The operator will provide the DM with all information it possesses concerning the geologic nature of the strata and the pressure of the well.) If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance base on what is required due to the geological strata, or due to the pressure within the well.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM due to the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), the operator will use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to the pressure within the well. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch and extend the top of the expanding cement at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet (or 400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to pressures within the well.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well. The operator will fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. The operator will provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in paragraph (d)(3) above. Fracture the original well in at least six places from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. The operator will pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. The operator will maintain a journal describing; the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(6) After the plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The

drivage spads will not be more than 50 feet from the well. Install drivage spads on 10-foot centers for a distance of 50 feet in advance of the well when using longwall-mining methods. The drivage spads will also be installed in the headgate.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. The operator will locate the fire hose in the last open crosscut of the entry or room and maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) On the shift prior to mining through the well, all equipment will be serviced and checked for permissibility. Water sprays, water pressures and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(6) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(7) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through it. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(8) Keep the working place free from accumulations of coal dust and coal spillages, and apply rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(9) When using continuous or conventional mining methods, the working places will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and place on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the well is intersected and thoroughly examine the place and determine it is safe before resuming mining. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. In rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition for modification. The operator will provide all miners involved in the mine-through of a well with training regarding the requirements of this petition for modification prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2016–018–C.

Petitioner: The Monongalia County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.

Mine: Monongalia County Mine, MSHA I.D. No. 46–01968, located in Monongalia County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Requested: The petitioner requests that the previously granted petition for modification be amended for the Consolidation Coal Company, Blacksville No. 2 Mine, Docket Number M–2001–014–C (now known as the Monongalia County Coal Company, Monongalia County Mine, MSHA I.D. No. 46–01968). The petitioner states that:

(1) The large majority of petroleum wells in the Marion County Coal Company Mine were drilled prior to 1930 when no standards for drilling and plugging existed. Many wells were abandoned during that time.

(2) Extensive research conducted by the U.S. Bureau of Mines, Energy Research and Development Administration, MSHA and past experience by Consolidation Coal Company has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

(3) In lieu of establishing and maintaining barriers around oil and gas wells, the petitioner proposes to seal the

Pittsburgh Coal Seam from the surrounding strata at the affected wells by using technology developed through the petitioner's successful well-plugging program. Since the inception of the well-plugging program, thousands of previously abandoned oil and gas wells have been effectively plugged and successfully been mined through or around.

(4) In lieu of the method of plugging oil and gas wells approved in the previously granted petition, the petitioner proposes an alternative method that incorporates proven technological advances not available for plugging oil and gas wells when the previous petition was granted.

As an alternative method of compliance with 30 CFR 75.1700, the petitioner proposes to maintain a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) around all oil and gas wells (defined to include all active, inactive, abandoned, shut-in, and previously plugged wells, including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM).

Prior to mining through any oil or gas wells, the petitioner will provide to the DM a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by logs described in this petition and any other records that the DM may request. The DM will review the declaration, the logs and any other records that have been requested, and may inspect the well, and will then determine if the operator has complied with the procedures for cleaning out, preparing and plugging each well. If the DM determines that the procedures have been complied with and provides an approval, the operator may then mine within the safety barrier of the well according to the terms of the Order.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam unless the DM requires cleaning to a greater depth based on what is required due to the geological strata, or due to the pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of well, wall to wall.

(2) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; The length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(3) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, the operator will cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator can demonstrate to the satisfaction of the DM that all annuli in the well are already adequately sealed with cement using a casing bond log, then the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), the operator will perforate or rip any casing that remains and fill with expanding cement and keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(4) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the DM requires a greater distance based on what is required due to the geological strata, or due to the pressure within the well. (The operator will provide the DM with all information it possesses concerning the geologic nature of the strata and the pressure of the well.) If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance base on what is required due to the geological strata, or due to the pressure within the well.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM due to the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), the operator will use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding

cement below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to the pressure within the well. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch and extend the top of the expanding cement at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet (or 400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to pressures within the well.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well. The operator will fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. The operator will provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in paragraph (d)(3) above. Fracture the original well in at least six places from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. The operator will pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. The operator will maintain a journal describing; the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(6) After the plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install drivage spads on 10-foot centers for a distance of 50 feet in advance of the well when using longwall-mining methods. The drivage spads will also be installed in the headgate.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. The operator will locate the fire hose in the last open crosscut of the entry or room and maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) On the shift prior to mining through the well, all equipment will be serviced and checked for permissibility. Water sprays, water pressures and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(6) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(7) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well

is intersected and immediately prior to mining through it. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(8) Keep the working place free from accumulations of coal dust and coal spillages, and apply rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(9) When using continuous or conventional mining methods, the working places will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and place on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the well is intersected and thoroughly examine the place and determine it is safe before resuming mining. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. In rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition for modification. The operator will provide all miners involved in the mine-through of a well with training regarding the requirements of this petition for modification prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2016–019–C.

Petitioner: The Harrison County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.

Mine: Harrison County Mine, MSHA I.D. No. 46–01318, located in Marion County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Requested: The petitioner requests that the previously granted petition for modification be amended for the Consolidation Coal Company, Robinson Run Mine, Docket Number M–2001–015–C (now known as the Harrison County Coal Company, Harrison County Mine, MSHA I.D. No. 46–01318). The petitioner states that:

(1) The large majority of petroleum wells in the Marion County Coal Company Mine were drilled prior to 1930 when no standards for drilling and plugging existed. Many wells were abandoned during that time.

(2) Extensive research conducted by the U.S. Bureau of Mines, Energy Research and Development Administration, MSHA and past experience by Consolidation Coal Company has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

(3) In lieu of establishing and maintaining barriers around oil and gas wells, the petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the affected wells by using technology developed through the petitioner's successful well-plugging program. Since the inception of the well-plugging program, thousands of previously abandoned oil and gas wells have been effectively plugged and successfully been mined through or around.

(4) In lieu of the method of plugging oil and gas wells approved in the previously granted petition, the petitioner proposes an alternative method that incorporates proven technological advances not available for plugging oil and gas wells when the previous petition was granted.

As an alternative method of compliance with 30 CFR 75.1700, the petitioner proposes to maintain a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) around all oil and gas wells (defined to include all active, inactive, abandoned, shut-in, and previously plugged wells, including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM).

Prior to mining through any oil or gas wells, the petitioner will provide to the DM a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by logs described in this petition and any other records that the DM may request. The DM will review the declaration, the logs and any other records that have been requested, and may inspect the well, and will then determine if the operator has complied with the procedures for cleaning out, preparing and plugging each well. If the DM determines that the procedures have been complied with and provides an approval, the operator may then mine within the safety barrier of the well according to the terms of the Order.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam unless the DM requires cleaning to a greater depth based on what is required due to the geological strata, or due to the pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of well, wall to wall.

(2) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; the length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(3) Remove all of the casing in the well or, if it is not possible to remove all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, the operator will cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator can demonstrate to the satisfaction of the DM that all annuli in the well are already adequately sealed with cement using a casing bond log, then the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), the operator will perforate or rip any casing that remains and fill with expanding cement and keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(4) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the DM requires a greater distance based on what is required due to the geological strata, or due to the pressure within the well. (The operator will provide the DM with all information it possesses concerning the geologic nature of the strata and the pressure of the well.) If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance base on what is required due to the geological strata, or due to the pressure within the well.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM due to the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.,* prime farmland), the operator will use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to the pressure within the well. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch and extend the top of the expanding cement at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet (or 400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to pressures within the well.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well. The operator will fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. The operator will provide an acceptable casing bond log for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in paragraph (d)(3) above. Fracture the original well in at least six places from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. The operator will pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. The operator will maintain a journal describing; the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(6) After the plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install drivage spads on 10-foot centers for a distance of 50 feet in advance of the well when using longwall-mining methods. The drivage spads will also be installed in the headgate.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. The operator will locate the fire hose in the last open crosscut of the entry or room and maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) On the shift prior to mining through the well, all equipment will be serviced and checked for permissibility. Water sprays, water pressures and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(6) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(7) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through it. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(8) Keep the working place free from accumulations of coal dust and coal spillages, and apply rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(9) When using continuous or conventional mining methods, the working places will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and place on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the well is intersected and thoroughly examine the place and determine it is safe before resuming mining. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. In rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less

than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition for modification. The operator will provide all miners involved in the mine-through of a well with training regarding the requirements of this petition for modification prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Docket Number: M–2016–020–C.

Petitioner: The Ohio County Coal Company, 1 Bridge Street, Monongah, West Virginia 26554.

Mine: Ohio County Mine, MSHA I.D. No. 46–01436, located in Marshall County, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Requested: The petitioner requests that the previously granted petition for modification be amended for the Consolidation Coal Company, Shoemaker Mine, Docket Number M–1990–066–C (now known as the Ohio County Coal Company, Ohio County Mine, MSHA I.D. No. 46–01436). The petitioner states that:

(1) The large majority of petroleum wells in the Marion County Coal Company Mine were drilled prior to 1930 when no standards for drilling and plugging existed. Many wells were abandoned during that time.

(2) Extensive research conducted by the U.S. Bureau of Mines, Energy Research and Development Administration, MSHA and past experience by Consolidation Coal Company has disclosed that certain plugging methods can effectively prevent explosive well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under § 75.1700.

(3) In lieu of establishing and maintaining barriers around oil and gas wells, the petitioner proposes to seal the Pittsburgh Coal Seam from the surrounding strata at the affected wells by using technology developed through the petitioner's successful well-plugging program. Since the inception of the well-plugging program, thousands of previously abandoned oil and gas wells have been effectively plugged and successfully been mined through or around.

(4) In lieu of the method of plugging oil and gas wells approved in the previously granted petition, the petitioner proposes an alternative method that incorporates proven technological advances not available for plugging oil and gas wells when the previous petition was granted.

As an alternative method of compliance with 30 CFR 75.1700, the petitioner proposes to maintain a safety barrier of 300 feet in diameter (150 feet between any mined area and a well) around all oil and gas wells (defined to include all active, inactive, abandoned, shut-in, and previously plugged wells, including water injection wells) until approval to proceed with mining has been obtained from the District Manager (DM).

Prior to mining through any oil or gas wells, the petitioner will provide to the DM a declaration stating that all mandatory procedures for cleaning out, preparing, and plugging each gas or oil well have been completed. The declaration will be accompanied by logs described in this petition and any other records that the DM may request. The DM will review the declaration, the logs and any other records that have been requested, and may inspect the well, and will then determine if the operator has complied with the procedures for cleaning out, preparing and plugging each well. If the DM determines that the procedures have been complied with and provides an approval, the operator may then mine within the safety barrier of the well according to the terms of the Order.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging or replugging:

(1) If the total depth of the well is less than 4,000 feet, the operator will completely clean out the well from the surface to at least 200 feet below the base of the lowest mineable coal seam unless the DM requires cleaning to a greater depth based on what is required due to the geological strata, or due to the pressure within the well. If the total depth of the well is 4,000 feet or greater, the operator will completely clean out the well from the surface to at least 400 feet below the base of the lowest mineable coal seam. The operator will remove all material from the entire diameter of well, wall to wall.

(2) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for a bridge plug. The DM may approve the use of a down-hole camera survey in lieu of down-hole logs. In addition, maintain a journal describing: The depth and nature of each material encountered; bit size and type used to drill each portion of the hole; length and type of each material used to plug the well; the length of casing(s) removed, perforated or ripped, or left in place; any sections where casing was cut or milled; and other pertinent information concerning cleaning and sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(3) Remove all of the casing in the well or, if it is not possible to remove

all of the casing, fill the annulus between the casings and between the casings and the well walls with expanding cement (minimum 0.5 percent expansion on setting) and ensure that these areas contain no voids. If the casing cannot be removed, the operator will cut or mill it at all mineable coal seam levels and perforate or rip it at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the uppermost mineable coal seam. If the operator can demonstrate to the satisfaction of the DM that all annuli in the well are already adequately sealed with cement using a casing bond log, then the operator will not be required to perforate or rip the casing for that particular well. When multiple casing and tubing strings are present in the coal horizon(s), the operator will perforate or rip any casing that remains and fill with expanding cement and keep an acceptable casing bond log for each casing and tubing string used in lieu of ripping or perforating multiple strings.

(4) Place a mechanical bridge plug in the well if a cleaned-out well emits excessive amounts of gas. Place the mechanical bridge plug in a competent stratum at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam, but above the top of the uppermost hydrocarbon-producing stratum, unless the DM requires a greater distance based on what is required due to the geological strata, or due to the pressure within the well. (The operator will provide the DM with all information it possesses concerning the geologic nature of the strata and the pressure of the well.) If it is not possible to set a mechanical bridge plug, an appropriately sized packer may be used.

(5) Properly place mechanical bridge plugs to isolate the hydrocarbon-producing stratum from the expanding cement plug, if the upper-most hydrocarbon-producing stratum is within 300 feet of the base of the lowest mineable coal seam. Nevertheless, the operator will place a minimum of 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater distance base on what is required due to the geological strata, or due to the pressure within the well.

b. The petitioner proposes to use the following procedures for plugging or replugging oil or gas wells to the surface:

(1) Pump expanding cement slurry down the well to form a plug that runs from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam (or lower if required by the DM due to the geological strata, or due to pressure within the well) to the surface. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch. Portland cement or a lightweight cement mixture may be used to fill the area from 100 feet above the top of the uppermost mineable coal seam (or higher if required by the DM due to the geological strata, or due to the pressure within the well) to the surface.

(2) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the American Petroleum Institute (API) well number either engraved or welded on the casing. When the hole cannot be marked with a physical monument (*e.g.*, prime farmland), the operator will use high-resolution GPS coordinates (one-half meter resolution) to locate the hole.

c. The petitioner proposes to use the following procedures for plugging or replugging oil and gas wells for subsequent use as degasification boreholes:

(1) Set a cement plug in the well by pumping expanding cement slurry down the tubing to provide at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) of expanding cement below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to the pressure within the well. The operator will place the expanding cement in the well under a pressure of at least 200 pounds per square inch and extend the top of the expanding cement at least 100 feet above the top of the coal seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well.

(2) Securely grout a suitable casing into the bedrock of the upper portion of the degasification well to protect it. The remainder of this well may be cased or uncased.

(3) Fit the top of the degasification casing with a wellhead, equipped as required by the DM in the approved ventilation plan. Such equipment may include check valves, shut-in valves, sampling ports, flame arrestor equipment, and security fencing.

(4) Operation of the degasification well will be addressed in the approved ventilation plan. This may include periodic tests of methane levels and limits on the minimum methane concentrations that may be extracted.

(5) After the area of the coal mine that is degassed by a well is sealed or the coal mine is abandoned, seal the degas holes using the following procedures:

(i) Insert a tube to the bottom of the drill hole or, if not possible, to at least 100 feet above the coal seam being mined. Remove any blockage to ensure that the tube is inserted to this depth.

(ii) Set a cement plug in the well by pumping Portland cement or a lightweight cement mixture down the tubing until the well is filled to the surface.

(iii) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level with the API well number engraved or welded on the casing.

d. The petitioner proposes to use the following procedures for preparing and plugging or replugging oil or gas wells that cannot be completely cleaned out:

(1) Drill a hole adjacent and parallel to the well to a depth of at least 200 feet (or 400 feet if the total well depth is 4,000 feet or greater) below the lowest mineable coal seam, unless the DM requires a greater depth due to the geological strata, or due to pressures within the well.

(2) Locate any casing that may remain in the well using a geophysical sensing device.

(3) If the well contains casings, drill into the well from the parallel hole and perforate or rip all casings at intervals of at least 5 feet from 10 feet below the coal seam to 10 feet above the coal seam. Beyond that distance, perforate or rip all casings at least every 50 feet from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam up to 100 feet above the seam being mined, unless the DM requires a greater distance due to the geological strata, or due to the pressure within the well. The operator will fill the annulus between the casings and between the casings and the well wall with expanding cement (minimum of 0.5% expansion on setting), and ensure that these areas contain no voids. When multiple casing and tubing strings are present in the coal horizons, rip or perforate any casing that remains and fill with expanding cement. The operator will provide an acceptable casing bond log

for each casing and tubing used in lieu of ripping or perforating multiple strings.

(4) Use a horizontal hydraulic fracturing technique to intercept the original well where there is sufficient casing in the well to allow use of the method outlined in paragraph (d)(3) above. Fracture the original well in at least six places from at least 200 feet (400 feet if the total well depth is 4,000 feet or greater) below the base of the lowest mineable coal seam to a point at least 50 feet above the seam being mined at intervals to be agreed on by the petitioner and the DM after considering the geological strata and the pressure within the well. The operator will pump expanding cement into the fractured well in sufficient quantities and in a manner that fills all intercepted voids.

(5) Prepare down-hole logs for each well. The logs will consist of a caliper survey and be suitable for determining the top, bottom, and thickness of all coal seams and potential hydrocarbon-producing strata and the location for the bridge plug. The operator will maintain a journal describing; the depth and nature of each material encountered; bit size and type used to drill each portion of the hole; the length and type of each material used to plug the well; length of casing(s) removed, perforated, ripped, or left in place; and other pertinent information concerning sealing the well. Invoices, work-orders, and other records relating to all work on the well will be maintained as part of the journal and provided to MSHA on request.

(6) After the plugging the well, plug the open portions of both holes from the bottom to the surface with Portland cement or a lightweight cement mixture.

(7) Embed steel turnings or other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the well. In the alternative, extend a 4½-inch or larger casing, set in cement, at least 36 inches above the ground level.

e. The petitioner proposes to use the following procedures after approval has been granted by the DM to mine through a plugged or replugged well:

(1) Prior to cutting-through a plugged well, notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time for them to have a representative present.

(2) Install drivage spads at the last open crosscut near the place to be mined to ensure intersection of the well when mining through wells using continuous mining equipment. The drivage spads will not be more than 50 feet from the well. Install drivage spads on 10-foot centers for a distance of 50 feet in advance of the well when using longwall-mining methods. The drivage spads will also be installed in the headgate.

(3) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through (when either the conventional or continuous mining method is used), will be available and operable during each well mine-through. The operator will locate the fire hose in the last open crosscut of the entry or room and maintain the water line to the belt conveyor tailpiece along with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(4) Keep available at the last open crosscut, a supply of roof support and ventilation materials sufficient to ventilate and support around the well on cut-through. In addition, keep emergency plugs and suitable sealing materials will be available in the immediate area of the well intersection.

(5) On the shift prior to mining through the well, all equipment will be serviced and checked for permissibility. Water sprays, water pressures and water flow rates used for dust and spark suppression will be examined and any deficiencies will be corrected.

(6) Calibrate the methane monitors on the longwall, continuous mining machine, or cutting machine and loading machine on the shift prior to mining through the well.

(7) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 30 feet of the well until the well is intersected and immediately prior to mining through it. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe. All workplace examinations will be conducted on the return side of the shearer while the shearer is idle.

(8) Keep the working place free from accumulations of coal dust and coal spillages, and apply rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(9) When using continuous or conventional mining methods, the working places will be free of accumulations of coal dust and coal spillages, and rock dust will be applied on the roof, rib, and floor to within 20 feet of the face when mining through the well. On longwall sections, rock dusting will be conducted and place on the roof, rib, and floor up to both the headgate and tailgate gob.

(10) Deenergize all equipment when the well is intersected and thoroughly examine the place and determine it is safe before resuming mining. After a well has been intersected and the working place determined safe, mining will continue inby the well at a distance sufficient to permit adequate ventilation around the area of the well.

(11) If the casing is cut or milled at the coal seam level, the use of torches should not be necessary. In rare instances, torches may be used for inadequately or inaccurately cut or milled casings. No open flame is permitted in the area until adequate ventilation has been established around the wellbore and methane levels are less than 1.0 percent in all areas that will be exposed to flames and sparks from the torch. The operator will apply a thick layer of rock dust to the roof, face, floor, ribs, and any exposed coal within 20 feet of the casing prior to any use of torches.

(12) Non-sparking (brass) tools will be located on the working section and will be used to expose and examine cased wells.

(13) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, including company personnel, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(14) The operator will alert all personnel in the mine to the planned intersection of the well prior to their going underground if the planned intersection is to occur during their shift. This warning will be repeated for all shifts until the well has been mined through.

(15) A certified official will directly supervise the cut-through operation and only the certified official in charge will issue instructions concerning the mine-through operation.

(16) The responsible person required in 30 CFR 75.1501 will be responsible for well intersection emergencies. The responsible person will review the well intersection procedures prior to any planned intersection.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. The proposed revisions will include initial and refresher training regarding compliance with the terms and conditions of this petition for modification. The operator will provide all miners involved in the mine-through of a well with training regarding the requirements of this petition for modification prior to mining within 150 feet of the next well to be mined through.

Within 30 days after this petition becomes final, the petitioner will submit proposed revisions for its approved mine emergency evacuation and firefighting plan required in 30 CFR 75.1501. The petitioner will revise the plans to include the hazards and evacuation procedures to be used for well intersections. All underground miners will be trained in this revised plan within 30 days of the DM's approval of the revised evacuation plan. Such training may be done in a weekly safety meeting or other type of appropriate setting.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Sheila McConnell,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2016–17173 Filed 7–20–16; 8:45 am]

BILLING CODE 4520–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Agency Information Collection Activities: Announcement of the Office of Management and Budget (OMB) Control Numbers Under the Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; announcement of the Office of Management and Budget's (OMB) approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration announces that OMB extended its approval for a number of information collection requirements found in a number of OSHA's standards and regulations. OSHA sought approval of these requirements under the Paperwork Reduction Act of 1995 (PRA), and, as required by that Act, is announcing the approval numbers and expiration dates for these requirements and regulations.

DATES: This notice is effective July 21, 2016.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION: In a series of **Federal Register** notices, the Agency announced its requests to OMB to renew its current extensions of approvals for various information collection (paperwork) requirements in its safety and health standards pertaining to general industry, shipyard employment, and the construction industry (*i.e.,* 29 CFR parts 1905, 1910, 1915, 1917, 1918, and 1926), and regulations pertaining to Occupational Safety and Health State Plans, and OSHA Strategic Partnership Program for Worker Safety and Health. In these **Federal Register** announcements, the Agency provided 60-day comment periods for the public to respond to OSHA's burden hour and cost estimates.

In accord with the PRA (44 U.S.C. 3501–3520), OMB approved these information collection requirements. The table below provides the following information for each of these information collection requirements approved by OMB: the title of the **Federal Register** notice; the **Federal Register** reference (date, volume, and leading page); OMB's Control Number; and the new expiration date.

Title of the information collection request	Date of Federal Register publication, Federal Register reference, and OSHA docket No.	OMB control No.	Expiration date
1,2-Dibromo-3 Chloropropane (DBCP) (29 CFR 1910.1044).	May 18, 2015 80 FR 28300 Docket No. OSHA–2012–0010	1218–0101	12/31/2018
1,3-Butadiene (29 CFR 1910.1051)	October 26, 2015 80 FR 65246 Docket No. OSHA–2012–0027	1218–0170	05/31/2019
4,4'-Methylenedianiline (MDA) in Construction (29 CFR 1926.60).	December 17, 2015 80 FR 78773 Docket No. OSHA–2012–0031	1218–0183	06/20/2019
Asbestos in Shipyards (29 CFR 1915.1001)	May 21, 2015 80 FR 29344 Docket No. OSHA–2012–0009	1218–0195	03/31/2019
Cadmium in General Industry (29 CFR 1910.1027)	June 11, 2015 80 FR 33293 Docket No. OSHA–2012–0005	1218–0185	12/31/2018
Commercial Diving Operations (29 CFR part 1910, subpart T).	April 7, 2015 80 FR 18647 Docket No. OSHA–2011–0008	1218–0069	03/31/2019
Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120).	August 19, 2015 80 FR 50325 Docket No. OSHA–2011–0862	1218–0202	03/31/2019
Hexavalent Chromium for General Industry (29 CFR 1910.1026), Shipyard Employment (29 CFR 1915.1026), and Construction (29 CFR 1926.1126).	December 17, 2015 80 FR 78775 Docket No. OSHA–2012–0034	1218–0252	06/30/2019
Inorganic Arsenic (29 CFR 1910.1018)	January 14, 2015 80 FR 1970 Docket No. OSHA2011–0186	1218–0104	10/31/2018
Lead in Construction (29 CFR 1926.62)	September 22, 2015 80 FR 57231 Docket No. OSHA–2012–0014	1218–0189	04/30/2019

Title of the information collection request	Date of Federal Register publication, Federal Register reference, and OSHA docket No.	OMB control No.	Expiration date
Lead in General Industry (29 CFR 1910.1025)	September 25, 2015 80 FR 53878 Docket No. OSHA–2012–0013	1218–0092	04/30/2019
Marine Terminal Operations (29 CFR part 1917) and Longshoring (29 CFR part 1918).	May 21, 2015 80 FR 29341 Docket No. OSHA–2012–0016	1218–0196	03/31/2019
Occupational Exposure to Hazardous Chemicals in Laboratories (29 CFR 1910.1450).	December 15, 2014 79 FR 74113 Docket No. OSHA–2011–0059	1218–0131	12/31/2018
Occupational Safety and Health Act Variance Regulations (29 CFR 1905.10, 1905.11, and 1905.72).	August 20, 2014 79 FR 49342 Docket No. OSHA–2009–0024	1218–0265	06/30/2018
Occupational Safety and Health State Plans	January 27, 2016 81 FR 4672 Docket No. OSHA–2011–0197	1218–0247	06–30–2019
OSHA Strategic Partnership Program (OSPP) for Worker Safety and Health.	June 19, 2015 80 FR 35402 Docket No. OSHA–2011–0861	1218–0244	03/31/2019
Temporary Labor Camps (29 CFR 1910.142)	April 29, 2015 80 FR 23822 Docket No. OSHA–2012–0012	1218–0096	12/31/2018

In accordance with 5 CFR 1320.5(b), an agency cannot conduct, sponsor, or require a response to a collection of information unless the collection displays a valid OMB control number and the Agency informs respondents that they need not respond to the collection of information unless it displays a valid OMB control number.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is 44 U.S.C. 3506 *et seq.* and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 15, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–17226 Filed 7–20–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2006–0040]

SGS North America, Inc.: Applications for Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the applications of SGS North America, Inc. for expansion of its scope of recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the applications.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before August 5, 2016.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2006–0040, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–2625, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 8:15 a.m.—4:45 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number OSHA–2006–0040. OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before August 5, 2016 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655,

Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Applications for Expansion

The Occupational Safety and Health Administration is providing notice that SGS North America, Inc. (SGS), is applying for expansion of its current recognition as an NRTL. SGS requests the addition of three (3) recognized testing and certification sites and thirty-nine (39) additional test standards to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition and is not a delegation or grant of government authority. Recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including SGS, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

Each NRTL's scope of recognition includes: (1) The type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product testing and product-certification activities for test standards within the NRTL's scope.

SGS currently has six facilities (sites) recognized by OSHA for product testing and certification, with its headquarters located at: SGS North America, Inc. 620 Old Peachtree Road, Suwanee, Georgia 30024. A complete list of SGS sites recognized by OSHA is available at *https://www.osha.gov/dts/otpca/nrtl/sgs.html.*

II. General Background on the Applications

SGS submitted four applications, two dated September 24, 2014 (OSHA–2006–0040–0025), and two dated October 1, 2014 (OSHA–2006–0040–0026 and OSHA–2006–0040–0028), to expand its recognition to include the addition of three recognized testing and certification sites located at: SGS Tecnos S.A., C/. Trespaderne 29, Edificio Barajas 1, 28042 Madrid—Spain; SGS Fimko, Ltd., Sarkiniementie 3, FI–00210 Helsinki, Finland; and SGS Baseefa Limited, Rockhead Business Park, Staden Lane, Buxton SK17 9RZ, United Kingdom. Amendments to the October 1, 2014, applications were received on January 14, 2015 (OSHA–2006–0040–0027), and June 16, 2016 (OSHA–2006–0040–0029). These applications requested the addition of 49 additional test standards to SGS's scope of recognition, in addition to the three testing and certification sites. OSHA staff performed detailed analysis of the application packets and on-site reviews of SGS's testing facilities on August 5, 2015, at SGS Madrid, August 13, 2015, at SGS-Baseefa and August 17, 2015, at SGS-Fimko, in which the assessors found some nonconformances with the requirements of 29 CFR 1910.7. SGS addressed these issues sufficiently, and OSHA staff preliminarily determined that OSHA should grant the applications to expand SGS's recognition to include the three additional recognized testing sites and 39 of the 49 requested standards.

Table 1 below lists the appropriate test standards found in SGS's applications for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 1741	Inverters, Converters, Controllers and Interconnection System Equipment for Use in Distributed Energy Resources.
UL 6142	Small Wind Turbine Systems.
UL 763	Motor-Operated Commercial Food Preparing Machines.
UL 775	Graphic Arts Equipment.
UL 1004–1	Rotating Electrical Machines—General Requirements.
UL 2089	Vehicle Battery Adapters.
ISA 60079–0	Explosive Atmospheres—Part 0: Equipment—General Requirements.
ISA 60079–1	Explosive Atmospheres—Part 1: Equipment Protection by Flameproof Enclosures "d".
ISA 60079–2	Explosive Atmospheres—Part 2: Equipment Protection by Pressurized Enclosures "p".
ISA 60079–5	Explosive Atmospheres—Part 5: Equipment Protection by Powder Filling "q".
ISA 60079–6	Explosive Atmospheres—Part 6: Equipment Protection by Liquid Immersion "o".
ISA 60079–7	Explosive Atmospheres—Part 7: Equipment Protection by Increased Safety "e".
ISA 60079–11	Explosive Atmospheres—Part 11: Equipment Protection by Intrinsic Safety "i".
ISA 60079–15	Explosive Atmospheres—Part 15: Equipment Protection by Type of Protection "n".
ISA 60079–18	Explosive Atmospheres—Part 18: Equipment Protection by Encapsulation "m".
ISA 60079–26	Explosive Atmospheres—Part 26: Equipment for Use in Class I, Zone 0 Hazardous (Classified) Locations.
ISA 60079–28	Explosive Atmospheres—Part 28: Protection of Equipment and Transmission Systems Using Optical Radiation, Edition 1.1.
ISA 60079–31	Explosive Atmospheres—Part 31: Equipment Dust Ignition Protection by Enclosure "t".

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARDS FOR INCLUSION IN SGS'S NRTL SCOPE OF RECOGNITION—Continued

Test standard	Test standard title
UL 1203	Explosion Proof and Dust-Ignition-Proof Electrical Equipment for Use in Hazardous (Classified) Locations.
UL 1574	Track Lighting Systems.
UL 2108	Low Voltage Lighting Systems.
UL 8750	Light Emitting Diode (LED) Equipment for Use in Lighting Products.
UL 60745–1	Hand-Held Motor-Operated Electric Tools—Safety—Part 1: General Requirements.
UL 60745–2–1	Hand-Held Motor Operated Electrical Tools—Safety—Part 2–1: Particular Requirements for Drills and Impact Drills.
UL 60745–2–2	Particular Requirements for Screwdrivers and Impact Wrenches.
UL 60745–2–3	Particular Requirements for Grinders, Polishers and Disk-Type Sanders.
UL 60745–2–4	Particular Requirements for Sanders and Polishers Other Than Disk Type.
UL 60745–2–5	Particular Requirements for Circular Saws.
UL 60745–2–6	Particular Requirements for Hammers.
UL 60745–2–8	Particular Requirements for Shears and Nibblers.
UL 60745–2–9	Particular Requirements for Tappers.
UL 60745–2–11	Particular Requirements for Reciprocating Saws.
UL 60745–2–12	Particular Requirements for Concrete Vibrators.
UL 60745–2–13	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–13: Particular Requirements for Chain Saws.
UL 60745–2–14	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–14: Particular Requirements for Planers.
UL 60745–2–15	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–15: Particular Requirements for Hedge Trimmers.
UL 60745–2–16	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–16: Particular Requirements for Tackers.
UL 60745–2–17	Hand-Held Motor-Operated Electric Tools—Safety—Part 2–17: Particular Requirements for Routers and Trimmers.
UL 62368–1	Audio/Video, Information and Communication Technology Equipment—Part 1: Safety Requirements.

III. Preliminary Finding on the Applications

SGS submitted acceptable applications for expansion of its scope of recognition. OSHA's review of the application files and its detailed on-site assessments indicate that SGS can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of three sites and these 39 test standards for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of SGS's applications.

OSHA welcomes public comment as to whether SGS meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if it is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–2625, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2006–0040.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant SGS's applications for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the applications. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7. OSHA will publish a public notice of this final decision in the **Federal Register**.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on July 15, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–17241 Filed 7–20–16; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0018]

Asbestos in General Industry; Extension of the Office of Management and Budget's (OMB) Approval of Collections of Information

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the collections of information contained in the Standard on Asbestos in General Industry (29 CFR 1910.1001).

DATES: Comments must be submitted (postmarked, sent, or received) by September 19, 2016.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0018, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0018) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the "Public Participation" heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register**≤ notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collections of information in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The basic purpose of the collections of information in the Standard is to document that employers in general industry are providing their workers with protection from exposure to hazardous asbestos. Asbestos exposure results in asbestosis, an emphysema-like condition; lung cancer; mesothelioma; and gastrointestinal cancer.

Several provisions of the Standard are collections of information, including: Implementing an exposure monitoring program that notifies workers of their exposure monitoring results, establishing a written compliance program, and informing laundry personnel of the requirement to prevent release of airborne asbestos above the time-weighted average and excursion limit. Other collections of information in the Standard include: maintaining records of information obtained concerning the presence, location, and quantity of asbestos-containing materials (ACMs) and/or presumed asbestos-containing materials (PACMs) in a building/facility; notifying housekeeping workers of the presence and location of ACMs and PACMs in areas they may occupy during their work; and using information, data, and analyses to demonstrate that PACMs do not contain asbestos. In addition, the collections of information in the Standard include: providing medical surveillance for workers potentially exposed to ACMs and/or PACMs, including administering a worker medical questionnaire, providing information to the examining physician, and providing the physician's written opinion to the worker; maintaining records of exposure monitoring, objective data used for exposure determinations, and medical surveillance; and making specified records (*e.g.,* exposure monitoring and medical surveillance records) available to designated parties.

These collections of information permit employers, workers and their designated representatives, OSHA, and other specified parties to determine the effectiveness of an employer's asbestos-control program. Accordingly, the requirements ensure that workers exposed to asbestos receive all of the protections afforded by the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed collections of information are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the collections of information, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

The Agency is requesting an adjustment decrease of 6 burden hours (from 11,694 to 11,688 burden hours). The decrease is due to the removal of burden hours associated with OSHA requests to access records from employers. Usually, OSHA requests access to records during an inspection. Information collected by the Agency during the investigation is not subject to the PRA under 5 CFR 1320.4(a)(2). There is also an estimated increase in operation and maintenance costs of $38,624, from $925,026 to $963,650. The increase in operation and maintenance costs is due to the increase in medical exam costs, offset by a decrease in estimated costs for contract industrial hygiene services to conduct exposure monitoring sampling, due to the Agency's use of a different data source to calculate the exposure monitoring sampling estimate.

OSHA is providing the following summary information about the Asbestos in General Industry information collection:

Type of Review: Extension of a currently approved collection.

Title: Asbestos in General Industry (29 CFR 1910.1001).

OMB Control Number: 1218–0133.

Affected Public: Businesses or other for-profits.

Number of Respondents: 121.

Frequency of Responses: Varies.

Total Responses: 32,173.

Average Time per Response: Varies.

Estimated Total Burden Hours: 11,688.

Estimated Cost (Operation and Maintenance): $963,650.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (Docket No. OSHA–2010–0018) for this ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as their social security number and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's "User Tips" link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on July 15, 2016.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2016–17247 Filed 7–20–16; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket 40–9092; NRC–2013–0164]

Reno Creek in Situ Uranium Recovery Project in Campbell County, Wyoming

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental environmental impact statement; extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) requested public comments on draft Supplement 6 to NUREG–1910, "Generic Environmental Impact Statement for *In Situ* Leach Uranium Milling Facilities." The public comment period was originally scheduled to close on August 22, 2016. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments in the document published on July 7, 2016 (81 FR 44333) is extended. Comments should be filed no later than September 6, 2016. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0164. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jill Caverly, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7674; email: *Jill.Caverly@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2013–0164 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0164.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* Draft Supplement 6 to NUREG–1910 is available in ADAMS under Accession Number ML16181A082. NUREG–1910 is available in ADAMS under Accession Numbers ML091480244 (Volume 1) and ML091480188 (Volume 2).
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2013–0164 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

On July 7, 2016, the NRC requested public comments on draft Supplement 6 to NUREG–1910, "Generic Environmental Impact Statement for *In Situ* Leach Uranium Milling Facilities." The public comment period was originally scheduled to close on August 22, 2016. The NRC is extending the public comment period until September 6, 2016.

Dated at Rockville, Maryland, this 15th day of July 2016.

For the Nuclear Regulatory Commission.

Craig G. Erlanger,

Director, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2016–17329 Filed 7–20–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0146]

NRC Vision and Strategy for Non-Light Water Reactor Mission Readiness

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft document; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is requesting public comment on a draft document, "NRC Vision and Strategy: Safely Achieving Effective and Efficient Non-Light Water Reactor Mission Readiness," Revision 1. The draft document provides the NRC's vision, mission, strategic goal, and strategic objectives for non-light water reactors (non-LWRs). Supporting strategies and contributing actions necessary to reach the objectives are also described in the draft document. The NRC encourages and welcomes public comments that can help it achieve mission readiness for these types of reactors.

DATES: Submit comments by September 19, 2016. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0146. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Michael S. Jones, Office of New Reactors, telephone: 301–415–0189, email: *Michael.Jones2@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0146 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0146.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "*ADAMS Public Documents*" and then select "*Begin Web-based ADAMS Search.*" For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The NRC's draft document is available in ADAMS under Accession No. ML16139A812.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0146 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC's mission is to license and regulate the Nation's civilian use of radioactive materials to protect public health and safety, promote the common defense and security, and protect the environment. As the NRC prepares to review and regulate a new generation of non-LWRs, a vision and strategy has been developed to assure the NRC's readiness to efficiently and effectively conduct its mission for these technologies. The NRC has prepared a draft document to guide these mission readiness preparations and is now seeking comments from the public so that the agency may benefit from a wide range of stakeholder input as the non-LWR vision and strategy is finalized.

The domestic and international non-LWR industries have changed significantly since the last U.S. commercial non-LWR was shut down in 1989 (Fort St. Vrain, a high-temperature gas—cooled reactor). The NRC now operates in an environment where potential non-LWR applicants have a wide and varied range of technical, business, and regulatory experience. Additionally, the non-LWR industry has become globalized, and commercial non-LWR plants are being designed, constructed, and operated abroad. This international activity provides opportunities for information exchanges between the NRC and its international counterparts about non-LWR operating experience, international codes and standards, and computer modeling techniques and programs.

The NRC could review and license a non-LWR design today, if needed. The agency needs to be effective and efficient as it conducts its safety, security, and environmental protection mission, without imposing unnecessary regulatory burden. This requires the NRC to consider the effects of a more dynamic domestic environment and a globalized non-LWR industry. Furthermore, the NRC recognizes the benefits of having a flexible regulatory framework, allowing potential applicants to select a best-fit path towards regulatory reviews and decisions. Examples of these flexibilities are described in the draft document.

The vision and strategy described in the draft document, once executed, will achieve the goal of assuring the NRC's readiness to effectively and efficiently review and regulate non-LWRs, while still protecting public health and safety, promoting the common defense and security, and protecting the environment. The strategy has three strategic objectives: Enhancing technical readiness, optimizing regulatory readiness, and optimizing communication. The steps needed to reach the readiness target are described in a series of supporting strategies and contributing activities, to be executed during near-term, mid-term, and long-term timeframes. Example schedules that help inform the vision and strategy implementation with potential non-LWR development, application, construction, and operation timeframes are also discussed in the draft document.

The NRC's approach under this non-LWR vision and strategy consists of two phases. Phase 1 is the conceptual planning phase used to lay out the vision and strategy, gather public feedback, and finalize the NRC's approach. Phase 2 includes detailed internal work planning efforts and task execution. Both phases began in 2016. Phase 1 is expected to be completed in 2016, and Phase 2 has a target completion date of not later than 2025.

The NRC's principles of good regulation—independence, openness, efficiency, clarity, and reliability—are embodied in this vision and strategy. While the NRC does not promote any particular reactor technology, its responsibilities as a regulator include working effectively with all stakeholders, clearly communicating its requirements, and providing regulatory information and feedback in a timely manner. Achieving this non-LWR readiness goal should also provide significant regulatory certainty to the non-LWR industry, potential applicants, and other stakeholders.

The NRC encourages all interested parties to comment on the draft non-LWR vision and strategy document, particularly on the near-term non-LWR regulatory review options. Stakeholder feedback will be valuable in helping the NRC develop a final non-LWR vision and strategy that has the benefit of considering the many views of the public and the regulated industry. The NRC will consider the comments submitted and may use them, as appropriate, in the preparation of the final document; however, the NRC does not anticipate responding to individual comments.

Dated at Rockville, Maryland, this 14th day of July 2016.

For the Nuclear Regulatory Commission.

Anna Bradford,

Chief, Advanced Reactor and Policy Branch, Division of Engineering, Infrastructure, and Advanced Reactors, Office of New Reactors.

[FR Doc. 2016–17327 Filed 7–20–16; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0233, Civil Service Retirement System Survivor Annuitant Express Pay Application for Death Benefits, RI 25–051

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an extension, without change, of a currently approved information collection request (ICR) 3206–0233, Civil Service Retirement System Survivor Annuitant Express Pay Application for Death Benefits, RI 25–51. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until September 19, 2016. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, 1900 E Street NW., Washington, DC 20415–0001, Attention: Alberta Butler, Room 2347–E, or sent via electronic mail to *Alberta.Butler@opm.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 25–51 will be used by the Civil Service Retirement System solely to pay benefits to the widow(er) of an annuitant. This application is intended for use in immediately authorizing payments to an annuitant's widow or widower, based on the report of death, when our records show the decedent elected to provide benefits for the applicant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Civil Service Retirement System Survivor Annuitant Express Pay Application for Death Benefits.

OMB: 3206–0233.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 34,800.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 17,400.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–17223 Filed 7–20–16; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Notice of Federal Long Term Care Insurance Program Enrollee Decision Period for Current Enrollees

AGENCY: Office of Personnel Management.

ACTION: Notice of Federal Long Term Care Insurance Program Enrollee Decision Period for Current Enrollees.

SUMMARY: The U.S. Office of Personnel Management (OPM) is announcing rules for current enrollees in the Federal Long Term Care Insurance Program (FLTCIP) who will be eligible to change coverage during a limited Enrollee Decision Period to be held this year. These rules pertain only to current eligible enrollees who may make certain changes because of premium rate increases that affect most enrollees. Eligible enrollees whose application was received on or before July 31, 2015, and whose enrollment was approved may make changes during this Enrollee Decision Period, provided they are not in benefit eligible status. Enrollees affected by the premium rate increase will receive information from Long Term Care Partners, the administrator of FLTCIP, with information on their opportunities to make changes to their coverage.

DATES: The Enrollee Decision Period will be from July 18, 2016 through September 30, 2016.

FOR FURTHER INFORMATION CONTACT: Enrollees may call 1–800–LTC–FEDS (1–800–582–3337) (TTY: 1–800–843–3557) or visit *http://www.ltcfeds.com.* For purposes of this **Federal Register** notice only, the contact at OPM is Rina Shah, Senior Policy Analyst, Planning and Policy Analysis at *rina.shah@opm.gov* or (202) 606–1427.

SUPPLEMENTARY INFORMATION: The Long-Term Care Security Act (Pub. L. 106–265) directs OPM to provide periodic opportunities for eligible persons to apply for coverage under the FLTCIP. OPM has issued regulations (5 CFR 875.402–875.404) which set forth procedures for FLTCIP open seasons. This notice is issued under the provisions of § 875.402(c). The Enrollee Decision Period described in this Notice is solely for current enrollees affected by the premium increase to make coverage changes. Eligible enrollees will be notified directly about the Enrollee Decision Period by Long Term Care Partners, LLC, the program administrator.

Enrollees who are subject to the premium rate increase effective November 1, 2016 will receive an offer package from Long Term Care Partners, LLC, with personalized options to allow them to reduce their coverage in order to mitigate the effect of the premium increase.

Enrollees who make coverage changes outside of the personalized options provided during the Enrollee Decision Period may be subject to full underwriting, as specified in § 875.403, and different premium calculation rules.

Qualified enrollees under these special rules: Persons enrolled in a FLTCIP standard plan whose application was received on or before July 31, 2015, and whose enrollment was approved, are eligible to make changes during the Enrollee Decision Period, provided they are not currently eligible for benefits and were not 80 years of age or older at purchase. Qualified enrollees will receive an offer package with personalized options.

Underwriting requirements: Eligible enrollees who wish to reduce their coverage or keep their current coverage (subject to any applicable rate increase) will be able to do so without underwriting. They may also change to a specified personalized option without underwriting. No enrollee's coverage will change unless he or she voluntarily chooses to change it. Coverage increases require full underwriting.

Billing age: For enrollees who retain their current benefits, premiums are based on the enrollee's age at purchase. For enrollees who choose to increase their benefits, outside of the Enrollee Decision Period personalized options, premiums will be determined on a blended rate basis, taking into account the enrollee's age at purchase and the enrollee's attained age as of November 1, 2016.

Premiums: Enrollees affected by the premium increase will receive detailed written information in the 2016 Enrollee Decision Period offer package. This package will be mailed from Long Term Care Partners, LLC, the program administrator, and will include the specific amount of their increase. The package will also include personalized options to help enrollees reduce the effect of the premium increase. At least one of the options will allow enrollees to reduce coverage in order to maintain their current premium at or below the current level that is paid. Premiums for coverage changes will vary according to the coverage options selected. Eligible enrollees may also be given an opportunity to stop paying premiums and convert their coverage to a paid-up, limited benefit (a consumer protection feature that is built into FLTCIP coverage).

Effective date: The effective date of coverage changes that do not require underwriting will be November 1, 2016. Coverage changes requiring underwriting, if approved, will be effective the first day of the month following approval of the request, but not before November 1, 2016.

Enrollees who make coverage changes during the Enrollee Decision Period will receive a new Schedule of Benefits. Enrollees will have 30 days after the date the Schedule of Benefits is received to cancel their Enrollee Decision Period coverage changes and revert to their original coverage with the full premium increase.

Authority: 5 U.S.C. 9008; 5 CFR 875.402.

U.S. Office of Personnel Management.

Beth Cobert,

Acting Director.

[FR Doc. 2016–17212 Filed 7–19–16; 11:15 am]

BILLING CODE 6325–63–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: 3206–0204, Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an existing information collection request (ICR) 3206–0204, Court Orders Affecting Retirement Benefits. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection.

DATES: Comments are encouraged and will be accepted until September 19, 2016. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Retirement Services, 1900 E Street NW., Room 2347E, Washington, DC 20415–0001, Attention: Alberta Butler, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street

NW., Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721 describe how former spouses give us written notice of a court order requiring us to pay benefits to the former spouse. Specific information is needed before OPM can make court-ordered benefit payments. The regulations allow us to make a unique collection of only the information needed for a particular customer case and not over-burden our entire customer base by making a generic information collection request (ICR) that requires the former spouse (or their representative) to possibly review and complete information that we may already have access to. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;
2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Court Orders Affecting Retirement Benefits, 5 CFR 838.221, 838.421, and 838.721.

OMB Number: 3206–0204.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 19,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 9,500.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

[FR Doc. 2016–17225 Filed 7–20–16; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2016–246]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 25, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2016–246; *Filing Title:* Notice of the United States Postal Service Filing of a Functionally Equivalent International Business Reply Service Competitive Contract 3 Negotiated Service Agreement; *Filing Acceptance Date:* July 15, 2016; *Filing Authority:* 39 CFR 3015.5 *et seq.*; *Public Representative* Jennaca D. Upperman; *Comments Due:* July 25, 2016.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2016–17238 Filed 7–20–16; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

New Hazardous Materials Packaging Provisions

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service will revise Publication 52, *Hazardous, Restricted, and Perishable Mail* (Publication 52), to provide revised standards for its hazardous materials Small Quantity Provision and to add a new Excepted Quantity Provision. Publication 52 was developed to provide expanded requirements for the mailing of hazardous, restricted, and perishable materials.

DATES: *Effective date:* August 4, 2016.

FOR FURTHER INFORMATION CONTACT: Kevin Gunther (202) 268–7208.

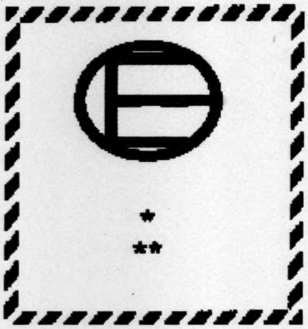
SUPPLEMENTARY INFORMATION:

Overview: U.S. Postal Service® Publication 52 provides mailing standards specific to hazardous, restricted and perishable items and materials. Pursuant to the *Mailing*

Standards of the United States Postal Service, Domestic Mail Manual (DMM®) section 601.8.2, Publication 52 applies to the mailability of hazardous materials.

Revisions to Publication 52: The Postal Service is making these revisions in order to more closely align with the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) January 14, 2009 changes to regulations for the transportation of specified hazardous materials shipped in small quantities.

PHMSA announced the adoption of their Excepted Quantity regulations on January 14, 2009, via Docket HM–215J. As part of this rulemaking, PHMSA maintained its then-current allowances for small quantities of Division 2.2, Class 3, Division 4.1, Division 4.2 (Packing Group II and III), Division 4.3 (Packing Group II and III), Division 5.1, Division 5.2, Division 6.1, Class 7, Class 8, and Class 9 materials transported by highway and rail. Also at this time, PHMSA adopted the United Nations (UN) and International Civil Aviation Organization (ICAO) Excepted Quantity regulations for transportation by aircraft or vessel. PHMSA stated it believed that aligning the existing Small Quantity regulations with the Excepted Quantity regulations for air and vessel transportation would enhance harmonization and increase safety. With this revision, PHMSA revised its Small Quantity regulations (49 CFR173.4) to apply to domestic highway and rail transportation only and added a new section 173.4a which matches international Excepted Quantity regulations for air and vessel transportation. Concurrent with these changes, PHMSA adopted the new "E" international marking, making it applicable to domestic transportation.



When using this marking, the "*" must be replaced by the primary hazard class or division number and the "**" must be replaced by the name of the shipper or consignee, if not shown elsewhere on the package.

To align the USPS Small Quantity Provision more closely with its DOT counterpart, the Postal Service will revise its current Small Quantity Provision, making the provision applicable only to surface mail products. As was previously the case, the USPS Small Quantity Provision will continue to be more restrictive than that applicable to commercial shippers and carriers. The Postal Service also clarifies this section to provide that Division 6.1 toxic substances in Packing Groups I and II are prohibited, and only Division 6.1 materials in Packing Group III are eligible to be mailed under the USPS Small Quantity Provision. Generally, Division 6.1, Packing Group I and II materials are listed as nonmailable in Publication 52, Appendix A.

In addition, the Postal Service adds a new Excepted Quantity Provision, intended to align with the DOT/PHMSA Excepted Quantity regulations published in 49 CFR 173.4a. The new Excepted Quantity Provision will apply to domestic USPS air products, but may be used with shipments placed in USPS surface transportation. Mailpieces entered under the USPS Excepted Quantity Provision must be marked with the DOT-approved "E" marking as described above and meet all quantity, packaging and marking requirements described in the revised section 337 and new Packaging Instruction 10B. Although the "E" excepted quantity marking is recognized for commercial international shipments, the USPS Excepted Quantity Provision is for domestic use only and is prohibited in international and APO/FPO/DPO mail.

The Postal Service will prohibit the shipment of materials in Hazard Classes 1, 2, 4, and 7 under the Excepted Quantity Provision.

The Postal Service will also add language to Publication 52, for both the Small Quantity and Excepted Quantity Provisions, to clarify that materials identified in Appendix A of Publication 52 as "prohibited" in USPS air and surface transportation are ineligible for mailing under these provisions, without regard to their hazard class, division, or packing group.

The specific revisions to Publication 52, *Hazardous, Restricted, and Perishable Mail* referenced in this notice will be published in *Postal Bulletin* 22447 on August 4, 2016, and can be viewed at *http://about.usps.com/postal-bulletin.* These revisions are expected to be incorporated into Publication 52 within the next few weeks. Publication 52 is provided in its entirety on *Postal Explorer®* at *http://pe.usps.com/text/pub52/welcome.htm.*

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–17203 Filed 7–20–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78345; File No. SR–NYSEArca–2016–96]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend NYSE Arca Equities Rule 8.700 and To List and Trade Shares of the Managed Emerging Markets Trust Under Proposed Amended NYSE Arca Equities Rule 8.700

July 15, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 1, 2016, NYSE Arca, Inc. (the "Exchange" or "NYSE Arca") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 8.700 to permit the use of swaps on equity indices, fixed income indices, commodity indices, commodities or interest rates, and to list and trade shares of the Managed Emerging Markets Trust under proposed amended NYSE Arca Equities Rule 8.700. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Equities Rule 8.700 permits the trading of Managed Trust Securities either by listing or pursuant to unlisted trading privileges ("UTP").[4] The Exchange proposes to amend NYSE Arca Equities Rule 8.700 to permit the use of swaps on equity indices, fixed income indices, commodity indices, commodities or interest rates. In addition, the Exchange proposes to list and trade the shares (the "Shares") of the Managed Emerging Markets Trust (the "Trust") under proposed amended NYSE Arca Equities Rule 8.700.

Proposed Amendments to NYSE Arca Equities Rule 8.700

The Exchange proposes to amend NYSE Arca Equities Rule 8.700(c)(1) to permit the use of swaps on equity indices, fixed income indices, commodity indices, commodities or interest rates. Permitting the use of such swaps would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve a trust's investment objective. For example, because the markets for certain futures contracts may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for an issuer of Managed Trust Securities to obtain the desired asset exposure. Additionally, swaps would allow parties to replicate desired returns while eliminating the costs associated with acquiring or holding the underlying asset. As such, the increased flexibility afforded by the ability of an issuer of Managed Trust Securities to use derivatives may enhance investor returns by facilitating the ability to more economically seek its investment objective, thereby reducing the costs incurred by such issuer.

The Exchange notes that swaps are currently permitted investments for issues of Trust Issued Receipts under Commentary .02 to NYSE Arca Equities Rule 8.200. In addition, the Commission has previously permitted investments in swaps for issues of Managed Fund Shares under NYSE Arca Equities Rule 8.600.[5]

Managed Emerging Markets Trust

The Trust is a Delaware statutory trust that will issue Shares representing fractional undivided beneficial interests in the Trust.[6] According to the Registration Statement, the Trust will not be an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1), as amended (the "1940 Act"), and will not be required to register under the 1940 Act.

The Trust is a commodity pool as defined in the CEA and the regulations of the CFTC. The Trust will be operated by Artivest Advisors LLC, a Delaware limited liability company (the "Sponsor"), that is also the Trust's adviser (the "Adviser") and will be registered under the CEA as a commodity pool operator. The sole member of the Sponsor is Artivest Holdings, Inc., a Delaware corporation. The Adviser is the commodity trading advisor of the Trust and will at all times be either registered as a commodity trading advisor or properly exempt from such registration under the CEA. The Adviser is not a broker-dealer and is not affiliated with a broker-dealer. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser becomes affiliated with a broker-dealer, it will implement a fire wall with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Trust's portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.[7]

The Bank of New York Mellon, a New York banking corporation, is the trustee of the Trust (the "Trustee"). Wilmington Trust, National Association, a national banking association, is the Delaware trustee of the Trust.

The Bank of New York Mellon also is the administrator of the Trust (the "Trust Administrator"), the custodian of the Trust (the "Custodian"), the processing agent of the Trust (the "Processing Agent"), and the settlement agent of the Trust (the "Settlement Agent"). The Trust has engaged Foreside Fund Services, LLC to act as a distributor on its behalf.

The Exchange notes that the Commission has previously approved the listing and trading of another issue of Managed Trust Securities on the Exchange.[8]

Managed Emerging Markets Trust

According to the Registration Statement, the Trust will pursue long-term total returns by seeking to provide both (1) a long-only exposure to one or more emerging markets equity indices (the "index exposure") and (2) "alpha" returns that are additive to, and are not correlated with, the index exposure (measured over rolling 5-year periods), while seeking to control overall downside risk and volatility. Total return refers to the combined income and capital appreciation generated by a portfolio.

According to the Registration Statement, the assets of the Trust (the "Portfolio") will consist of positions in futures contracts on emerging market equity indices, foreign currency forward contracts, swaps providing exposure to such futures contracts and forward contracts, and cash and other financial instruments which may be used, as needed, to secure the Trust's trading obligations with respect to those trading positions. The Adviser will pursue the Trust's investment objective by utilizing a discretionary portfolio construction approach that is designed to provide (i) the index exposure, and (ii) exposure to an "alpha" portfolio with returns likely to be independent of, and uncorrelated to, the index exposure.

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[4] Managed Trust Security means a security that is registered under the Securities Act of 1933 (15 U.S.C. 77a), as amended (the "Securities Act"), is issued by a trust that (1) is a commodity pool as defined in the Commodity Exchange Act (7 U.S.C. 1) (the "CEA"), and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission (the "CFTC"), and (2) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts selected by the trust's advisor consistent with the trust's investment objectives, which will only include, exchange-traded futures contracts involving commodities, currencies, stock indices, fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, each as disclosed in the trust's prospectus; and (ii) [sic] is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value. *See* NYSE Arca Equities Rule 8.700(c)(1).

[5] *See, e.g.*, Securities Exchange Act Release No. 71938 (April 14, 2014), 79 FR 21981 (April 18, 2014) (SR–NYSEArca–2013–144) (order approving proposed rule change permit listing and trading of shares of the ETSpreads HY Long Credit Fund, the ETSpreads HY Short Credit Fund, the ETSpreads IG Long Credit Fund, and the ETSpreads IG Short Credit Fund under NYSE Arca Equities Rule 8.600).

[6] *See* Pre-Effective Amendment No. 5, dated [sic] See Pre-Effective Amendment No. 5, dated August 18, 2015, to the Trust's Registration Statement on Form S–1 (File No. 333–182772) (the "Registration Statement") under the Securities Act. The descriptions of the Trust and the Shares contained herein are based, in part, on the Registration Statement.

[7] The activities of the Trust will be limited to (1) issuing Baskets (as described below) in exchange for cash, (2) paying out of Trust assets any Trust expenses and liabilities not assumed by the Sponsor, (3) delivering proceeds consisting of cash in exchange for Baskets surrendered for redemption, (4) depositing any required margin in the form of cash or other eligible assets with domestic futures commission merchants, foreign futures brokers or other financial intermediaries or dealers, and (5) investing its cash, at the direction of the Adviser, in a portfolio of futures contracts, forward contracts and swaps.

[8] *See* Securities Exchange Act Release No. 60064 (June 8, 2009), 74 FR 28315 (June 15, 2009) (SR–NYSEArca–2009–30) (order approving the adoption of listing standards for Managed Trust Securities and the listing and trading of shares of the iShares® Diversified Alternatives Trust).

The Adviser will seek to provide the index exposure by holding long emerging markets equity index futures positions. The Adviser will seek to provide alpha exposure by actively trading and investing a portfolio primarily composed of futures contracts and forward contracts using its discretion to make investment choices based on fundamental analysis of various macroeconomic factors.

The Trust may hold cash necessary to cover its ordinary and extraordinary expenses.

Alpha Strategy

According to the Registration Statement, the alpha strategy will seek to provide returns that are independent of, and uncorrelated to, the index exposure, by trading and investing primarily in futures contracts and forward contracts relating to emerging markets. The Adviser will pursue a strategy based on fundamental analysis and will make investment decisions based on its view of the fundamental value of various financial instruments relative to market prices and expectations. In certain limited circumstances, the Trust may invest in exchange-traded swaps, swaps accepted for central clearing ("cleared swaps") and swaps which are not accepted for central clearing ("uncleared swaps"), as described below. The Trust will only invest in cleared swaps if an investment in exchange-traded swaps is unavailable, and the Trust will only invest in uncleared swaps if an investment in cleared swaps is unavailable. No more than 20% of the Portfolio may be invested, on both an initial and an ongoing basis, in over-the-counter ("OTC") swaps.

To construct the alpha portfolio, the Adviser will apply both quantitative and qualitative analysis to market and economic data to generate investment ideas, to trade and invest on a discretionary basis, and to manage portfolio risk.

The Adviser's investment process will reflect its belief that macroeconomic factors drive investment returns over the medium and long term. These macroeconomic factors include fundamental economic and fundamental market factors. Examples of fundamental economic factors include monetary and fiscal policy, growth conditions, inflation, and the quality and stability of governmental and civic institutions. Examples of fundamental market factors include matters such as valuation and pricing metrics, interest rates, momentum, liquidity, and ease of capital formation.

The Adviser will form conclusions regarding future economic conditions and future financial instruments pricing based on its review and analysis of macroeconomic factors. The Adviser's investment process will be driven by its understanding of the underlying relationships between asset class pricing and macroeconomic forces. The Adviser will evaluate markets based on both the current state of various macroeconomic factors (*i.e.,* current conditions) as well as anticipated changes to those conditions, and will seek to understand what expectations regarding those changes are embedded in current market pricing. From time to time, the Adviser will form thematic, macroeconomic-based "alpha views" regarding its desired exposures to investment themes.

The Adviser will utilize both quantitative and qualitative analysis in its investment process. With respect to quantitative analysis, the Adviser will apply a range of mathematical and statistical techniques to historical and real-time market and economic data that relates to the various macroeconomic factors, as part of an ongoing research process. The Adviser will analyze this historical data in an effort to identify how changes to current conditions and expectations about future conditions will affect the prices of various financial instruments. The quantitative analysis used by the Adviser will particularly focus on the volatility and correlation characteristics of financial instruments, as the Adviser will seek to build a diversified portfolio in the alpha strategy. The Adviser will seek to develop predictive models based on its quantitative analysis to generate and evaluate investment ideas. However, the Trust will trade purely on a discretionary basis and the Adviser will engage in a qualitative analysis of any investment ideas generated utilizing quantitative analysis.

The Adviser also will utilize qualitative analysis which relies on the investment experience and views of its principals, as well as internally-developed frameworks for evaluating and generating investment ideas. The Adviser's qualitative analysis will focus on research relating to the subjective conditions of macroeconomic factors in emerging markets, the perception and expectations of market participants, and the risk characteristics of investment ideas.

Emerging Markets

According to the Registration Statement, emerging markets are generally considered to be nations with social or business activity in the process of rapid growth and industrialization, typically characterized by increasingly liquid and broad capital markets, strengthening civil institutions, improving governance, strengthening infrastructure and increasing quality of life for citizens. Emerging markets are also often marked by increasingly educated and competitive labor forces and rapid growth in industrialization, combined with relatively lower consumption per capita than in more developed economies. These countries are often engaged in a transition from an underdeveloped economy into a well-capitalized, developed economy similar to those of the advanced industrialized countries like the United States, Japan or much of Western Europe.

The Adviser will look at a variety of factors to determine whether a country is an "emerging market." Currently, the Adviser views countries as "emerging markets" if they are considered to be developing, emerging or frontier by sources such as MSCI, the International Monetary Fund, the World Bank, the International Finance Corporation, the United Nations, The Economist magazine, Standard & Poor's and Dow Jones, or if they are countries with a stock market capitalization of less than 5% of the MSCI World Index.

Emerging market countries typically are located in the following regions: Asia-Pacific; Eastern Europe; the Middle East; Central and South America; and Africa.

Within these regions, the Trust will likely invest in financial instruments relating to countries such as: Argentina, Brazil, Chile, China, Colombia, Czech Republic, Egypt, Greece, Hong Kong, Hungary, India, Indonesia, Israel, Jordan, Kenya, Lebanon, Malaysia, Mexico, Morocco, Nigeria, Peru, Philippines, Poland, Qatar, Russia, Singapore, South Africa, South Korea, Taiwan, Thailand, Turkey, United Arab Emirates, Ukraine and Vietnam.

This list will change from time to time based on market developments. The percentage of Trust assets invested in a specific region or country will change from time to time. The Trust will not be subject to any limitations on the percentage of its assets that may be exposed to a single region or country.

Portfolio Construction

According to the Registration Statement, to construct the Portfolio, the Adviser expects to devote a portion of the Trust proceeds to establishing the emerging markets index exposure (generally expected to be maintained at a level equal to 100% of the Trust's net assets) and substantially all of the remainder to seek the alpha exposure (generally not to exceed a level equal to 300% of the Trust's net assets). The portion of Trust assets required to maintain these exposures will fluctuate from time to time, in particular as the margin requirements to maintain the Trust's futures contract positions fluctuate.

According to the Registration Statement, futures contracts and forward contracts have an inherent degree of leverage due to the relatively small amounts of capital required to be deposited as margin for such financial instrument positions (generally 2% to 5% of the value of the contract). The Trust may at times trade with a significant degree of leverage, and the Trust's use of leverage can be expected to vary from time to time. The Adviser will seek to limit the notional exposure of the overall Portfolio to no more than 400% of the Trust's net assets. Notwithstanding the foregoing limitation on the Trust's use of leverage, the Adviser will seek to mitigate leveraging risk if the notional exposure of the overall Portfolio is approaching the leverage limitation.

In addition, the Trust will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Trust, including the Trust's use of derivatives, may give rise to leverage, causing the Trust to be more volatile than if it had not been leveraged. Because the markets for certain securities, or the securities themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Trust to obtain the desired asset exposure. To mitigate leveraging risk, the Adviser will segregate or "earmark" liquid assets or otherwise cover the transactions that may give rise to such risk.

Index Exposure Portfolio Construction

According to the Registration Statement, the Trust will seek to maintain constant exposure to one or more emerging markets equity indices by holding long positions in emerging markets index futures contracts.[9] Generally, the Adviser will seek to maintain an emerging markets index exposure to equal 100% of the Trust's net assets, although this may vary from time to time depending on market conditions. The Adviser expects the volatility for the Trust's index portfolio to track the volatility of major emerging markets indices (based on historical volatility, 20% to 25%).

The MSCI Emerging Markets Index is the initial emerging market equity index that the Trust will invest in (by holding long MSCI Emerging Markets Index futures contracts as the index itself is not investable) to achieve its index exposure. The Adviser may in the future invest in additional or different emerging markets index futures contracts.

The MSCI Emerging Markets Index is intended to measure equity market performance in the global emerging markets. The MSCI Emerging Markets Index is a free float-adjusted market capitalization index with a base date of December 31, 1987 and an initial value of 100. The MSCI Emerging Markets Index is calculated daily in U.S. dollars and published in real time every 60 seconds during market trading hours. The MSCI Emerging Markets Index spans large, mid and small cap securities and currently consists of the following 21 emerging market country indices: Brazil, Chile, China, Colombia, Czech Republic, Egypt, Hungary, India, Indonesia, Malaysia, Mexico, Morocco, Peru, Philippines, Poland, Russia, South Africa, South Korea, Taiwan, Thailand, and Turkey. As of July 31, 2015, the five largest country weights were China (23.93), South Korea (14.18%), Taiwan (12.48%), India (8.37%), and South Africa (8.00%), and the five largest sector weights were Financials (29.49%), Information Technology (17.49%), Consumer Discretionary (9.03%), Consumer Staples (8.54%), and Energy (8.09%). The MSCI Emerging Markets Index is part of the MSCI Regional Equity Indices series and is an MSCI Global Investable Market Index, which is a family within the MSCI International Equity Indices.

ICE Futures U.S. has been licensed to create futures contracts on the MSCI Emerging Markets Index, and the Adviser expects to obtain its emerging markets index exposure by holding long positions in these futures contracts.[10]

Because the Trust's index exposure will be provided by futures contracts which have dated expirations, the Trust will need to periodically rebalance or "roll" its exposures by selling near-dated futures contracts and buying longer-dated futures contracts to replace them. The Adviser will rebalance the Trust's exposures on a discretionary, rather than systematic basis, and will seek to roll its index futures positions in a way that minimizes the Trust's transaction costs. The Adviser also will seek to avoid rolling futures contracts extremely close to expiry, and generally will refrain from holding contracts through to expiration and settlement, as described in more detail under "Rebalancing" below.

Alpha Portfolio Construction

According to the Registration Statement, the Adviser will construct a portfolio of instruments for the Trust to hold by determining the optimal way to express its alpha views in light of pragmatic considerations associated with trading in financial instruments. The Adviser will assess trading and investment risks in selecting both which alpha views to express and in constructing an optimal portfolio accordingly. The Adviser will seek to minimize both transaction costs and exogenous trading risks such as liquidity or counterparty risks while maximizing the clarity of expression of the Adviser's alpha views. Some of the criteria included in this analysis for each instrument or market will be: Liquidity or trading volume, margin requirements, commission rates, bid-ask spreads and futures contracts curve shape.

With respect to the alpha portfolio, the Adviser will take directional positions where it believes prices will move favorably over the medium- to long-term (*i.e.*, over the next three months or more) as a result of the anticipated gap between its perceptions and the market. Because the alpha portfolio will seek to capture price movements resulting from certain changes in markets resulting from changing expectations about certain market fundamentals, the alpha strategy will be directional and an investment in Shares should not be considered market-neutral. The Adviser does not expect, however, that the alpha portfolio will over time favor any particular market with either a long bias or a short bias.

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[9] An index futures contract is a bilateral agreement pursuant to which two parties agree to take or make delivery of an amount of cash equal to a specified dollar amount multiplied by the difference between the index value at the close of trading of the contract and the price at which the futures contract is originally struck. No physical delivery of the securities comprising the index will be made; rather, the contract will be settled in cash at the termination of the contract. The settlement will be equal to the difference between the contract price and the actual level of the stock index at the expiration of the contract. The Trust expects to settle contracts prior to their expiration date.

[10] ICE Futures U.S. is a member of the Intermarket Surveillance Group ("ISG").

The alpha portfolio primarily will be composed of futures contracts on emerging market equity indices and foreign currency forward contracts, as described in more detail below. The Trust may invest in futures contracts and forward contracts of varying duration, from shorter-term contracts of one to three months to longer-term contracts of up to three years or more. The Trust will not use any particular index or benchmark to construct the alpha portfolio. Except as otherwise described herein, there will be no limitations on the commodity interests that the Trust may trade to seek its alpha exposure.

According to the Registration Statement, the Adviser anticipates that as the Trust grows larger, it may also, in certain limited circumstances, invest in exchange-traded swaps, cleared swaps and uncleared swaps. These limited circumstances include the following:

- When futures contracts are not available or market conditions do not permit investing in futures contracts (for example, a particular futures contract may not exist or may trade only on an exchange that has not yet been approved by the Trust); and
- When there are position limits, price limits or accountability limits on futures contracts.

Therefore, swaps would only be used by the Trust as a substitute for futures contracts in the limited circumstances described above when the Adviser has determined that it is necessary to use swaps in order for the Trust to remain consistent with the Trust's investment objective. Further, the Adviser expects that the Trust's use of swaps, if any, will be of a de minimis nature.

To the extent that the Trust invests in swaps, it would first make use of exchange-traded swaps if such swaps are available with respect to futures contracts on emerging market equity indices or foreign currency forward contracts. If an investment in exchange-traded swaps is unavailable, then the Trust would invest in cleared swaps that clear through derivatives clearing organizations that satisfy the Trust's criteria if such swaps are available with respect to futures on emerging market equity indices or foreign currency forward contracts. If an investment in cleared swaps is unavailable, then the Trust would invest in other swaps, including uncleared swaps in the OTC market.[11] However, no more than 20% of the Portfolio may be invested, on both an initial and an ongoing basis, in OTC swaps.

The Adviser generally will seek to maintain an annualized volatility ranging from 15% to 20% for the Trust's alpha portfolio.

Alpha Futures Contracts

According to the Registration Statement, the Adviser expects that 75% to 90% of the Portfolio's alpha exposure will be obtained via futures contracts, which can vary from time to time in the sole discretion of the Adviser. The Trust expects to take long or short positions in a wide variety of commodity futures contracts and financial futures contracts, as discussed in more detail below. The Trust expects to trade in commodity futures contracts, including metals, agriculturals, energies, and softs. The Trust expects to trade in a wide variety of financial futures contracts, including interest rates, currencies and currency indices, U.S. and non-U.S. equity indices and government bond futures contracts. With respect to futures contracts on emerging market equity indices, the alpha portfolio may be exposed to stock index futures contracts and other indices composed of corporate equities issued in local markets.

If the Trust purchases or sells a listed commodity or currency futures contract, it will agree to purchase or sell, respectively, the specified commodity or currency at a specified future date. The price at which the purchase and sale takes place will be fixed when the Trust enters the contract. Margin deposits will be posted as performance bonds with the Trust's clearing broker and then ultimately with the exchange clearing corporation who ultimately serves as the counterparty for the listed contract (thus limiting counterparty credit risk to the exchange itself).

Alpha Forward Contracts

The Trust may enter into forward contracts, which will be limited solely to foreign currency forward contracts,[12] which the Adviser expects may comprise 10% to 25% of the Portfolio's alpha exposure (although this will fluctuate from time to time in the discretion of the Adviser). In particular, the Trust may trade foreign currency forward contracts (a) to gain exposure to currencies that are not easily or efficiently traded in futures contracts or (b) if the Adviser believes that a relevant forward has more favorable terms than an available futures contract, such as more favorable liquidity. The Adviser also does not currently expect to engage in any transactions that would be considered "retail forex" transactions for purposes of the CEA. The Trust will only enter into foreign currency forward contracts related to foreign currencies that have significant foreign exchange turnover and are included in the Bank for International Settlements Triennial Central Bank Survey, September 2013 ("BIS Survey"). Specifically, the Trust may enter into foreign currency forward contracts that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey.

The Trust may enter into deliverable forward contracts, in which there is physical delivery of a specified amount of currency equivalent to the market value of the contract. Alternatively, the Trust may invest in non-deliverable forward contracts where there is no physical delivery of the currency at the maturity of the contract. Instead, one party will agree to make periodic payments to its counterparty based on the change in market value or level of a specified currency. In return, the counterparty will make periodic payments to the first party based on the return of a different specified currency. Generally, these non-deliverable forward contracts will be entered into on a net basis, whereby the Trust will receive or pay only the net amount of the two payments, representing the excess, if any, of the Trust's obligations over its entitlements with respect to each non-deliverable forward contract. These net amounts will be accrued on a daily basis and an amount of cash or highly liquid securities having an aggregate value at least equal to the accrued excess will be maintained in an account at the Trust's custodian. The risk of loss with respect to non-deliverable forward contracts generally will be limited to the net amount of payments that the Trust is contractually obligated to make or receive.

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[11] According to the Registration Statement, swap transactions generally involve contracts between two parties to exchange a stream of payments computed by reference to a notional amount and the price of the asset that is the subject of the swap. Swap contracts are principally traded off-exchange, although certain swap contracts are also being traded in electronic trading facilities and cleared through clearing organizations. Swaps are usually entered into on a net basis, that is, the two payment streams are netted out in a cash settlement on the payment date or dates specified in the agreement, with the parties receiving or paying, as the case may be, only the net amount of the two payments. Swaps do not generally involve the delivery of underlying assets or principal. Accordingly, the risk of loss with respect to swaps is generally limited to the net amount of payments that the party is contractually obligated to make. In some swap transactions one or both parties may require collateral deposits from the counterparty to support that counterparty's obligation under the swap agreement. If the counterparty to such a swap defaults, the risk of loss consists of the net amount of payments that the party is contractually entitled to receive less any collateral deposits it is holding. Some swap transactions are cleared through central counterparties. These transactions, known as cleared swaps, involve two counterparties first agreeing to the terms of a swap transaction, then submitting the transaction to a clearing house that acts as the central counterparty. Once accepted by the clearing house, the original swap transaction is novated and the central counterparty becomes the counterparty to a trade with each of the original parties based upon the trade terms determined in the original transaction. In this manner each individual swap counterparty reduces its risk of loss due to counterparty nonperformance because the clearing house acts as the counterparty to each transaction.

[12] A forward currency contract is a privately negotiated contract to purchase or sell a specific currency at a future date (usually less than one year) at a price set at the time of the contract. The Trust may enter into forward currency contracts to "lock in" the exchange rate between the currency it will deliver and the currency it will receive for the duration of the contract. Forward currency contracts are traded over-the-counter and not on exchanges.

The Trust's forward contracts will be collateralized to the extent required by the relevant counterparties. The counterparties to the Trust's forward contracts are expected to be brokers, dealers and other financial institutions. The Adviser will seek to diversify the Trust's counterparty exposure, but may from time to time have concentrated exposure to one or more counterparties. However, the Adviser represents that it will not concentrate risks with a single counterparty and will establish polices and procedures to manage counterparty concentration and monitor counterparty creditworthiness. The policies and procedures to monitor counterparty creditworthiness will consider the credit rating of the counterparty and any past experience with the counterpary.

Rebalancing

According to the Registration Statement, the Adviser will rebalance the Portfolio on a discretionary basis, as described in more detail below.

Rebalancing of the Alpha Portfolio

According to the Registration Statement, the Adviser will determine whether to maintain particular exposures, close out positions, or resize positions, in its discretion and in accordance with its investment strategy and analysis of market conditions. The Adviser will seek to make any such adjustments to the Portfolio in a manner that minimizes transaction costs and Portfolio exposure to variations in price that do not reflect the Adviser's intended investment exposure. To do so, the Adviser will analyze transaction costs, liquidity and margin concerns, and financial instrument pricing. The Adviser does not expect, under normal market conditions, to settle any futures contracts.

Rebalancing of the Index Portfolio

According to the Registration Statement, with respect to the index exposure, the Adviser will seek to invest in longer-dated contracts to maintain constant exposure and minimize transaction costs. The Adviser will "roll" (*i.e.,* regularly purchase and subsequently sell) its contract positions throughout the year. As a particular futures contract nears its expiration date (or earlier), the Adviser will roll the position into a new contract. The Adviser will actively manage the implementation of this roll process. As a result, the roll dates, terms and contract prices selected by the Adviser may vary based upon factors such as contract liquidity and duration, pricing and market risk. This active management of the roll process is intended to minimize the Trust's exposure to costs associated with market or trading inefficiencies.

Costs Associated With Rebalancing

According to the Registration Statement, if futures contracts are trading at a lower or higher price than their expected spot price, and it is time for the Trust to roll its exposure by reinvesting the proceeds of a maturing contract in a new contract, the Trust may do so at higher or lower futures contracts prices, or it may determine not to reinvest such proceeds. When longer-dated contracts are priced lower than nearer-dated contracts and spot prices, the market is in "backwardation," and positive roll yield may be generated when higher priced nearer-dated contracts are sold to buy and hold lower priced longer-dated contracts. When the opposite is true and longer-dated contracts are priced higher than nearer-dated contracts and spot prices, the market is in "contango," and negative roll yields may result from the sale of lower priced nearer-dated contracts to buy and hold higher priced longer-dated contracts. If the Trust invests at a higher price than the spot price, the Trust will bear the associated "roll cost" or negative roll yield in addition to the brokerage transaction costs, such as commissions and clearing charges, to effect such roll transactions. To the extent that the Adviser determines to rebalance more frequently, the Portfolio will incur more substantial transaction charges and possible roll costs, depending on market conditions.

Risk Management

The Adviser will determine the Trust's asset allocation which seeks to achieve a target excess return at a targeted risk level, as described in more detail below.

The Adviser will have the discretion to adjust the index exposure above or below 100%, and may do so from time to time based on market conditions. The Adviser also may determine to allocate Portfolio assets to additional or different emerging market indices. The Adviser does not generally expect to hedge the index exposure.

The Adviser will construct the alpha portfolio using a "risk budget" whereby the desired alpha views are framed as desired quantities of risk units. The portfolio construction process then will translate these desired risk unit quantities into specific financial instruments for the Trust to hold. The Portfolio will be assessed on at least a weekly basis to determine whether market movements have caused the Trust's actual risk exposures to drift from its desired risk exposures. If there is a sizeable drift that exceeds thresholds where it is efficient for the Adviser to rebalance the alpha portfolio (taking into account transaction costs and other trading frictions) then the Adviser will rebalance the alpha portfolio to move closer to the desired risk budget. However, if there is a drift that exceeds thresholds but it is not efficient for the Adviser to rebalance the alpha portfolio, then the Adviser may choose not to rebalance the alpha portfolio. Once purchased, instruments held by the Trust may from time to time be subject to stop-losses or other contingent trading orders in an attempt to hedge certain risks, including event or liquidity risks.

Description of the Shares and Principal Trust Investments

According to the Registration Statement, and as noted above, in pursuit of the Trust's investment objective, the Trust will primarily trade and invest in futures on emerging market equity indices and foreign currency forward contracts. For more information regarding the types of futures contracts and forward contracts that the Trust will invest in, see "Portfolio Construction" above.

The Trust expects to trade futures contracts on U.S. exchanges and non-U.S. exchanges. The U.S. exchanges on which the Trust may trade futures contracts include ICE Futures U.S. and other exchanges that are members of the ISG.[13] In addition, the Trust may hold futures traded on the Kansas City Board of Trade (“KBT”). The non-U.S. exchanges on which the Trust may trade futures contracts include, but are not limited to, the following: The London Metal Exchange (“LME”), ASX Limited, Dubai Mercantile Exchange Limited, Euronext Amsterdam NV, and Osaka Securities Exchange Co., Ltd.[14]

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[13] *See* "Surveillance," *infra.*

Other Trust Investments

The Trust’s Portfolio may contain cash which may be used, as needed, to secure the Trust’s trading obligations with respect to its trading positions. Although the Trust’s investment objective is not primarily to hold significant amounts of cash, cash may comprise a significant portion of the net asset value (“NAV”) of the Trust.

In order to collateralize futures contracts and forward contracts, the Trust may invest in U.S. government debt instruments, which are U.S. Treasury bills, notes and bonds of varying maturities that are backed by the full faith and credit of the United States government, or other short-term securities (in each case that are eligible as margin deposits under the rules of the Exchange), which may include money market instruments (“Short-Term Securities”). Although the Trust’s investment objective is not primarily to trade and invest in Short-Term Securities, Short-Term Securities may comprise a significant portion of the NAV of the Trust.[15]

Issuance and Redemption of the Shares

According to the Registration Statement, the Trust intends to issue and redeem Shares on a continuous basis only in one or more blocks of 100,000 Shares (“Baskets”). Baskets will be issued and redeemed only in exchange for consideration in cash equal to the “Basket Amount”[16] announced by the Trust on the first “Business Day”[17]after the purchase or redemption order is received by the Trust. Baskets may be created and redeemed only by “Authorized Participants”. Only institutions that enter into an agreement with the Trust to become Authorized Participants may purchase or redeem Baskets.

Creation of Baskets

On any “Eligible Business Day”,[18] an Authorized Participant may place a purchase order with the Processing Agent to create one or more Baskets. Purchase orders must be placed by 1:15 p.m. (E.T.) or the close of regular trading on the New York Stock Exchange, whichever is earlier (“Purchase Order Cutoff Time”). Purchase orders received after the Purchase Order Cutoff Time on an Eligible Business Day, or on a day that is not an Eligible Business Day will be treated as received on the next following Eligible Business Day. The day on which the Processing Agent receives a valid purchase order is referred to as the purchase order date. By placing a purchase order, an Authorized Participant agrees to deposit cash with the Trust, as described below.

Determination of the Creation Deposit Amount

The total deposit required to create each Basket (“Creation Deposit Amount”) will be the amount of cash that is in the same proportion to the NAV of the Trust (net of estimated accrued but unpaid fees, expenses and other liabilities) on the purchase order date as the number of Shares to be created under the purchase order is in proportion to the total number of Shares outstanding on the purchase order date.

Delivery of the Creation Deposit Amount

An Authorized Participant who places a purchase order will be responsible for transferring to the Settlement Agent the required amount of cash by 6:00 p.m. (E.T.) on the next Business Day following the purchase order date or by the end of such later Business Day, not to exceed three Business Days after the purchase order date, as agreed to between the Authorized Participant and the Settlement Agent when the purchase order is placed (the “Purchase Settlement Date”), and give notice of such deposit to the Settlement Agent via facsimile or electronic mail message. Upon receipt of the Creation Deposit Amount, the Settlement Agent will direct the Depository Trust Company (” DTC”) to credit the number of Baskets ordered to the Authorized Participant’s DTC account on the Purchase Settlement Date. If the Settlement Agent does not receive the Creation Deposit Amount on a timely basis, the purchase order will be automatically cancelled.

Rejection of Purchase Orders

The Sponsor will have the absolute right to reject any purchase order, including, without limitation, (1) purchase orders that the Processing Agent determines are not in proper form, (2) purchase orders that the Sponsor determines would have adverse tax or other consequences to the Trust, (3) purchase orders the acceptance of which would, in the opinion of counsel to the Sponsor, result in a violation of law, (4) purchase orders in respect of which the Settlement Agent has not received the corresponding Creation Deposit Amount by 6:00 p.m. (E.T.) on the Purchase Settlement Date, or (5) during any period in which circumstances make transactions in, or settlement or delivery of, Shares or components of the Portfolio impossible or impractical. The Sponsor may suspend the creation of Baskets, or postpone the issuance date, for as long as it considers necessary for any reason. None of the Sponsor, the Processing Agent, the Settlement Agent or the Trustee, the Trust or any of their agents are liable to any person for such suspension or postponement.

Redemption of Baskets

The procedures by which an Authorized Participant can redeem one or more Baskets mirror the procedures for the creation of Baskets. On any Eligible Business Day, an Authorized Participant may place an order with the Processing Agent to redeem one or more Baskets. Redemption orders must be placed by 1:15 p.m. (E.T.) or the close of regular trading on the New York Stock Exchange, whichever is earlier (“Redemption Order Cutoff Time”). Redemption orders received after the Redemption Order Cutoff Time on an

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[14] The Exchange has entered into a comprehensive surveillance agreement with KBT and LME relating to applicable futures contracts. ASX Limited is regulated by the Australian Securities and Investments Commission, which is a member of ISG. Japan Exchange Regulation (“JPX–R”), an affiliate of the Osaka Securities Exchange that conducts self-regulatory functions on behalf of the Osaka Securities Exchange, is a member of the Intermarket Surveillance Group and information relating to transactions in futures contracts traded on the Osaka Securities Exchange is available through JPX–R. *See* “Surveillance,” *infra.*

[15] “NAV of the Trust” means the total assets of the Trust including all cash and cash equivalents or other debt securities less total liabilities of the Trust, each determined on the basis of United States generally accepted accounting principles, consistently applied under the accrual method of accounting. In particular, NAV of the Trust includes any unrealized profit or loss on open forward contracts and futures contracts, and any other credit or debit accruing to the Trust but unpaid or not received by the Trust. “NAV per Share” means the Trust’s NAV per Share.

[16] “Basket Amount” means, as of any date, an amount equal to the product of the NAV per Share on such date and the number of Shares constituting a Basket on such date.

[17] “Business Day” means any day other than (a) a Saturday or Sunday; (b) a day on which the Exchange is closed for regular trading; (c) a day on which any of he [sic] Adviser, the Processing Agent, the Settlement Agent, the Trust Administrator, the Sponsor or the Trustee is authorized or required by law or regulation to remain closed; or (d) a day on which the Federal Reserve wire transfer system is closed for cash wire transfers.

[18] “Eligible Business Day” means any Business Day other than a Business Day which immediately precedes two or more days on which there is no scheduled exchange trading session for one or more of the futures contracts purchased or sold, or that may be purchased or sold, by the Trust on such day.

Eligible Business Day, or on a day that is not an Eligible Business Day will be treated as received on the next following Eligible Business Day. A redemption order so received will be effective on the date it is received in satisfactory form by the Processing Agent. The day on which the Processing Agent receives a valid redemption order is referred to as the redemption order date.

Determination of the Redemption Deposit Amount

The Redemption Deposit Amount from the Trust will consist of a transfer to the redeeming Authorized Participant of an amount of cash that is in the same proportion to the NAV of the Trust (net of estimated accrued but unpaid fees, expenses and other liabilities) on the redemption order date as the number of Shares to be redeemed under the redemption order is in proportion to the total number of Shares outstanding on the redemption order date.

Delivery of the Redemption Deposit Amount

The redemption distribution due from the Trust will be delivered to the Authorized Participant on the Redemption Settlement Date if the Trust's DTC account has been credited with the Baskets to be redeemed. If the Trust's DTC account has not been credited with all of the Baskets to be redeemed by 6:00 p.m. (E.T.) of such date, the redemption distribution will be delivered to the extent of whole Baskets received.

Computation of the Trust's NAV

According to the Registration Statement, on each Business Day, as soon as practicable after the close of regular trading of the Shares on the Exchange (normally 4:00 p.m. E.T.), the Sponsor will determine the NAV of the Trust, the NAV per Share and the Basket Amount as of that date.

On each day on which the Sponsor must determine the NAV of the Trust, the NAV per Share and the Basket Amount, the Trust Administrator will value all assets in the Portfolio and communicate that valuation to the Sponsor for use by the Sponsor in the determination of the Trust's NAV. The Sponsor will subtract the Trust's accrued fees (other than fees computed by reference to the value of the Trust or its assets), accrued expenses and other liabilities on that day from the value of the Trust's assets as of the time of calculation on that Business Day. The result is the Trust's "Adjusted Net Asset Value." Fees computed by reference to the value of the Trust or its assets (including the Sponsor's Fee[19]) will be calculated on the Adjusted Net Asset Value. The Sponsor will subtract the fees so calculated from the Adjusted Net Asset Value of the Trust to determine the Trust's NAV.

The Sponsor will determine the NAV per Share by dividing the NAV of the Trust on a given day by the number of Shares outstanding at the time the calculation is made. The Sponsor will then determine the Basket Amount corresponding to that date by multiplying the NAV by the number of Shares in a Basket (*i.e.*, 100,000). The NAV and NAV per Share for each Business Day will be distributed through major market data vendors and published online at *www.artivestfunds.com*, or any successor thereto. The Sponsor will update the NAV and NAV per Share as soon as practicable after each subsequent NAV per Share is calculated.

The current market value of an open futures contract, whether traded on a U.S. exchange or a non-U.S. exchange, will be determined by the Trust Administrator based upon the settlement price for such futures contract traded on the applicable exchange on the date with respect to which NAV is being determined; provided that if such futures contract could not be liquidated on such day, due to the operation of daily limits (if applicable) or other rules, procedures or actions of the exchange upon which that position is traded or otherwise, the settlement price on the most recent day on which the position could have been liquidated may be the basis for determining the market value of the position for that day.

The current market value of all Short-Term Securities that have not yet matured will be determined by the Trust Administrator based upon the current market prices for such securities; provided that if current market prices are not available, then the current market value will be based on the amortized value for such securities.

The current market value of all open forward contracts and swaps will be based upon the prices determined by the Trust Administrator utilizing data from an internationally recognized valuation service for those types of assets.

The Sponsor may in its discretion (and, under extraordinary circumstances, will) value any asset of the Trust pursuant to other principles that it deems fair and equitable so long as those principles are consistent with industry standards and are in compliance with all applicable regulatory requirements. In this context, "extraordinary circumstances" includes, for example, periods during which a valuation price for a forward contract or a settlement price of a futures contract is not available due to force majeure-type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance or due to a trading disruption in the futures markets or in forward contracts or swaps or a trading or other restriction imposed by an exchange on which the forward contract, futures contract or swap is traded.

Availability of Information Regarding the Shares

According to the Registration Statement, the Adviser's Web site, which will be publicly accessible at no charge, will contain the following information: (a) The daily NAV of the Trust, the daily NAV per Share, the prior business day's NAV per Share and the reported daily closing price; (b) the daily composition of the Disclosed Portfolio, as defined in NYSE Arca Equities Rule 8.700(c)(2);[20] (c) the midpoint of the bid-ask price in relation to the NAV per Share as of the time the NAV per Share is calculated (the "Bid-Ask Price"); (d) the calculation of the premium or discount of such price against such NAV per Share; (e) the bid-ask price of Shares determined using the highest bid and lowest offer as of the time of calculation of the NAV; (f) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (g) the current prospectus of the Trust, included in the Registration Statement; and (h) other applicable quantitative information.

On a daily basis, the Trust will disclose on its Web site (*www.artivestfunds.com*) for each futures contract, forward contract, swap or other financial instrument in the Disclosed Portfolio the following information: name, ticker symbol (if applicable), number of shares or dollar value, percentage weighting, the underlying assets (if applicable), and the expiration date (if applicable). The Web site information will be publicly available at no charge. In addition, price information for the futures contracts, forward contracts, swaps and other financial instruments held by the Trust will be available through major market data vendors and/or the exchange on which they are listed and traded, as applicable.

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[19] "Sponsor's Fee" means an allocation to be paid by the Trust to the Sponsor monthly in arrears and will accrue daily at an annualized rate equal to a certain percentage of the Adjusted Net Asset Value of the Trust.

[20] NYSE Arca Equities Rule 8.700(c)(2) provides that the term "Disclosed Portfolio" means "the identities and quantities of the securities and other assets held by the Trust that will form the basis for the Trust's calculation of net asset value at the end of the business day".

As noted above, the Trust's NAV and the NAV per Share will be calculated and disseminated daily.[21] The Exchange will disseminate for the Trust on a daily basis by means of the Consolidated Tape Association (the "CTA") high-speed line information with respect to the recent NAV per Share, the number of Shares outstanding and the Basket Amount. The Exchange also will make available on its Web site daily trading volume, closing prices and the NAV per Share.

Pricing for futures contracts will be available from the relevant exchange on which such futures contracts trade and pricing for forward contracts and swaps will be available from major market data vendors. Price information for Short-Term Securities will be available from major market data vendors.

The Intraday Indicative Value (the "IIV") will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session (as defined under NYSE Arca Equities Rule 7.34).[22]

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

The current trading price per Share will be published continuously as trades occur throughout each trading day through CTA, or through major market data vendors.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Equities Rule 8.700 for initial and continued listing of the Shares.

The anticipated minimum number of Shares to be outstanding at the start of trading will be 100,000 Shares. The Exchange believes that this anticipated minimum number of Shares to be outstanding at the start of trading is sufficient to provide adequate market liquidity and to further the objectives of the Trust. The Exchange represents that, for the initial and continued listing of the Shares, the Trust must be in compliance with NYSE Arca Equities Rule 5.3 and Rule 10A–3 under the Exchange Act.[23]

Trading Rules

Under NYSE Arca Equities Rule 8.700(b), Managed Trust Securities are included within the Exchange's definition of "securities." The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Commentary .02 to NYSE Arca Equities Rule 8.700 provides that transactions in Managed Trust Securities will occur during the trading hours specified in NYSE Arca Equities Rule 7.34. Therefore, in accordance with NYSE Arca Equities Rule 7.34, the Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in the Shares will be halted if the circuit breaker parameters under NYSE Arca Equities Rule 7.12 are reached. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the underlying futures contracts, forward contracts or swaps, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.700(e)(2)(D), which sets forth circumstances under which trading in the Shares may be halted.

In addition, if the Exchange becomes aware that the NAV, the NAV per Share and/or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV, the NAV per Share and/or the Disclosed Portfolio is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[24] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and certain futures contracts with other markets or other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, [sic] may obtain trading information regarding trading in the Shares and certain futures contracts from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares and certain futures contracts from markets or other entities that are members of ISG or with which the

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[21] The Exchange will obtain a representation from the Trust that the NAV and the NAV per Share will be calculated daily and that the NAV, the NAV per Share and the composition of the Disclosed Portfolio will be made available to all market participants at the same time.

[22] Currently, it is the Exchange's understanding that several major market data vendors widely disseminate IIVs taken from the CTA high-speed line or other data feeds.

[23] 17 CFR 240.10A–3.

[24] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

Exchange has in place a comprehensive surveillance sharing agreement.[25]

Not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts shall consist of futures contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the Portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures shall constitute continued listing requirements for listing the Shares on the Exchange.

The Trust has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Equities Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders (as defined under NYSE Arca Equities Rule 1.1(n)) in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (4) how information regarding the IIV and the Disclosed Portfolio is disseminated; (5) the risks involved in trading the Shares during the opening and late trading sessions when an updated IIV will not be calculated or publicly disseminated; and (6) trading information. In addition, the Bulletin will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

The Bulletin also will reference the fact that there is no regulated source of last sale information regarding physical commodities and many of the asset classes that the Trust may hold and that the Commission has no jurisdiction over the trading of certain futures contracts.

The Bulletin also will discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Exchange Act. The Bulletin also will disclose that the NAV and NAV per Share will be calculated after 4:00 p.m. E.T. each trading day.

2. Statutory Basis

The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[26] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

In permitting the use of specified swaps, the proposed amendment to NYSE Arca Equities Rule 8.700 would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve a trust's investment objective. For example, because the markets for certain futures contracts may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for an issuer of Managed Trust Securities to obtain the desired asset exposure. Additionally, swaps would allow parties to replicate desired returns while eliminating the costs associated with acquiring or holding the underlying asset. As such, the increased flexibility afforded by the ability of an issuer of Managed Trust Securities to use derivatives may enhance investor returns by facilitating the ability to more economically seek its investment objective, thereby reducing the costs incurred by such issuer.

The use of swaps by the Trust is consistent with the protection of investors because swaps would only be used in certain limited circumstances. Swaps would only be used by the Trust when (1) futures contracts are not available or market conditions do not permit investing in futures contracts (for example, a particular futures contract may not exist or may trade only on an exchange that has not yet been approved by the issuer); or (2) there are position limits, price limits or accountability limits on futures contracts. In addition, an issuer of Managed Trust Securities would invest in exchange-traded swaps before investing in centrally cleared swaps and would invest in centrally cleared swaps before investing in uncleared swaps. The use of exchange-traded swaps and centrally cleared swaps before uncleared swaps would protect investors because exchange-traded swaps and centrally cleared swaps provide more transparency. More importantly, swaps are subject to a strict regulatory framework, including margin requirements (initial and variation) and record keeping requirements. No more than 20% of the Trust's Portfolio may be invested, on both an initial and an ongoing basis, in OTC swaps. Furthermore, the Trust is a regulated entity subject to registration requirements, ongoing compliance requirements and regulatory oversight by the CFTC and the National Futures Association (NFA).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.700. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via the ISG from other exchanges that are members of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Trust will only enter into foreign currency forward contracts related to foreign currencies that have significant foreign exchange turnover and are included in the BIS Survey. Specifically, the Trust may enter into foreign currency forward contracts that provide exposure to such currencies, selected from the top 40 currencies (as measured by percentage share of average daily turnover for the applicable month and year) included in the BIS Survey. The NAV of the Trust, the NAV per Share and the Disclosed Portfolio will be disseminated to all market participants at the same time. The Trust will provide Web site disclosure of portfolio holdings daily. The IIV per Share (quoted in U.S. dollars) will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by major market data vendors. Pricing for futures contracts will be available from the relevant exchange on which such futures contracts trade and pricing for forward contracts and swaps will be available from major market data vendors. Quotation and last-sale information regarding the Shares will be disseminated through the CTA high-speed line.

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[25] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[26] 15 U.S.C. 78f(b)(5).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest given that a large amount of information will be publicly available regarding the Trust and the Shares, thereby promoting market transparency. To the extent that the Trust invests in futures contracts traded on foreign exchanges, not more than 10% of the weight of such futures contracts in the aggregate shall consist of futures contracts whose principal trading market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. As provided in NYSE Arca Equities Rule 8.700(e)(2)(D), the Exchange may halt trading during the day in which an interruption to the dissemination of the IIV occurs, or the value of the underlying futures contracts occurs. If the interruption to the dissemination of the IIV or the value of the underlying futures contracts persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. If the Exchange becomes aware that the NAV, the NAV per Share and/or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV, the NAV per Share and/or the Disclosed Portfolio is available to all market participants. Trading in Shares of the Trust will be halted if the circuit breaker parameters under NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Moreover, prior to the commencement of trading, the Exchange will inform its ETP Holders in the Bulletin of the special characteristics and risks associated with trading the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest given that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via the ISG from other exchanges that are members of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the IIV and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will principally hold futures contracts, swaps and forward contracts, and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–96 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–96 and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17198 Filed 7–20–16; 8:45 am]

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[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78338; File No. SR–BatsBZX–2016–41]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use of Bats BZX Exchange, Inc.

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 13, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c) in order to amend the Tape B Quoting Tier.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to amend the requirements for meeting the Tape B Quoting Tier for LMP Securities.[6] [7] Specifically, the Exchange is proposing that a Member will qualify for Tier 1 of the Tape B Quoting Tier where the Member is enrolled in at least 50 LMP Securities for which it meets the required criteria[8] (the "Required Criteria") for at least 50% of the trading days in a particular month. As currently implemented, a Member must be enrolled in 50 LMP Securities for which it meets the Required Criteria every trading day in a month in order to be eligible for the additional rebate in Tape B[9] securities. As proposed, the Exchange would count an LMP Security toward the 50 LMP Security requirement where the Member meets the Required Criteria for at least 50% of the trading days in a particular month. A Member would qualify for the Tape B Quoting Tier where the Member meets the Required Criteria for 50 different LMP Securities for at least 50% of the trading days in a particular month. The Required Criteria for each LMP Security will each be evaluated separately and the Member does not need to meet the Required Criteria for all 50 LMP Securities on the same 50% of trading days. For example, in a month with 22 trading days, a Member would be eligible for the Tape B Quoting Tier where the Member met the Required Criteria in 25 LMP Securities in the first 11 trading days of the month and met the Required Criteria for a different set of 25 LMP Securities in the second 11 trading days of the month. The Exchange is not proposing to amend the Required Criteria.

The Exchange proposes to implement these amendments to its fee schedule effective immediately.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[10] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) and 6(b)(5) of the Act,[11] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The proposal reflects a change to a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange and enhance market quality in LMP Securities and in Tape B securities. The Exchange believes that the proposed change to require Members to only meet the Required Criteria for at least 50% of trading days in a particular month is equitable and non-discriminatory in that it would apply uniformly to all Members. The Exchange believes that the proposed change is reasonable because the Required Criteria represent stringent quoting standards that can be difficult to meet and trading activity in LMP Securities can vary greatly on a day to day basis. Further, the proposed change is designed to enhance market quality on the Exchange by making the Tape B Quoting Tier more achievable for

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term "Member" is defined as "any registered broker or dealer that has been admitted to membership in the Exchange." *See* Exchange Rule 1.5(n).

[6] "LMP Securities" means a list of securities included in the Liquidity Management Program, the universe of which will be determined by the Exchange and published in a circular distributed to Members and on the Exchange's Web site. Such LMP Securities will include all Bats-listed ETPs and certain non-Bats-listed ETPs for which the Exchange wants to incentivize Members to provide enhanced market quality. All Bats-listed securities will be LMP Securities immediately upon listing on the Exchange. The Exchange will not remove a security from the list of LMP Securities without 30 days prior notice.

[7] The Exchange notes that it originally filed a similar proposal as file number SR-BatsBZX–2016–32 on June 30, 2016, which it subsequently withdrew and filed another similar proposal as file number SR–BatsBZX–2016–38 on July 6, 2016, which it also subsequently withdrew and filed another similar proposal as file number SR–BatsBZX–2016–40 on July 11, 2016. The Exchange has withdrawn file number SR–BatsBZX–2016–40 and is filing this similar proposal in its place.

[8] The required criteria to meet the Tape B Quoting Tier are: (i) the Member's NBBO Time in the LMP Security is at least 15% or NBBO Size Time is at least 25%; and (ii) the Member's Displayed Size Time in the LMP Security is at least 90%. NBBO Time means the average of the percentage of time during regular trading hours during which the Member maintains at least 100 shares at each of the NBB and NBO. NBBO Size Time means the percentage of time during regular trading hours during which there are size-setting quotes at the NBBO on the Exchange. Displayed Size Time means the percentage of time during regular trading hours during which the Member maintains at least 2,500 displayed shares on the bid and separately maintains at least 2,500 displayed shares on the offer that are priced no more than 2% away from the NBB and NBO, respectively.

[9] Tape B securities includes all securities listed on the Exchange, NYSE Arca, Inc., and NYSE MKT LLC.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4) and (5).

Members. Making the Tape B Quoting Tier more achievable for Members will incentivize more Members to seek to meet the Tape B Quoting Tier, which will further enhance market quality on the Exchange, to the benefit of all participants. Stated another way, the Exchange believes that the Tape B Quoting Tier enhances market quality on the Exchange in two ways: (i) By incentivizing Members to meet certain quoting standards in LMP Securities designed to narrow spreads, increase size at the inside, and increase liquidity depth on the Exchange in such LMP Securities; and (ii) providing an additional rebate for all of a qualifying Member's orders that add liquidity in Tape B securities will incentivize Members to increase their participation on the Exchange in Tape B securities. By making the Tape B Quoting Tier more achievable for Members, more Members will seek to and will meet the quoting tier and thus enhance liquidity on the Exchange as described above, to the benefit of all market participants. Accordingly, the Exchange also believes that the proposal will act to enhance liquidity and competition across exchanges in LMP Securities and enhance liquidity provision in Tape B securities on the Exchange by providing a rebate reasonably related to such enhanced market quality to the benefit of all investors, thereby promoting the principles discussed in Section 6(b)(5) of the Act.[12]

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange does not believe that the changes burden competition, but instead, enhance competition, as these changes are intended to increase the competitiveness of the Exchange as it is designed to draw additional volume to the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if the deem fee structures to be unreasonable or excessive. The proposed changes are generally intended to enhance the rebates in Tape B securities, which is intended to enhance market quality in LMP Securities and Tape B securities. As such, the proposal is a competitive proposal that is intended to add additional liquidity to the Exchange, which will, in turn, benefit the Exchange and all Exchange participants.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and paragraph (f) of Rule 19b–4 thereunder.[14] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–41. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–41 and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17193 Filed 7–20–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78344; File No. SR–ISE–2016–17]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Price Improvement Mechanism Pilot Program

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 14, 2016, the International Securities Exchange, LLC (the "Exchange" or the "ISE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The

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[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend two pilot programs related to its Price Improvement Mechanism ("PIM"). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM (collectively, the "PIM Pilot Programs" or "Pilot Programs"). The current Pilot Period provided in paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2016.[3] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the Price Improvement Mechanism. Paragraph .05 concerns the termination of the exposure period by unrelated orders. The Exchange has continually submitted certain data in support of extending the current Pilot Programs. The Exchange proposes to extend these Pilot Programs in their present form, through January 18, 2017, to give the Exchange and the Commission additional time to evaluate the effects of these Pilot Programs before the Exchange requests permanent approval of the rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the Pilot Programs are consistent with the Act because they provide opportunity for price improvement for all orders executed in the Exchange's Price Improvement Mechanism. The proposed extension would allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption to the pilot. Further, the Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the Pilot Programs for an additional six months. The Exchange further believes it is appropriate to extend the Pilot Programs to provide the Exchange and Commission more data upon which to evaluate the rules. With this data, the Commission can evaluate whether the new data shows there is meaningful competition for all size orders within the PIM, whether there is significant price improvement for all orders executed through the PIM, and whether there is an active and liquid market functioning on the Exchange outside of the PIM.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the PIM. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period because the Pilot Programs are set to expire on July 18, 2016. The Exchange noted that such waiver will allow the Pilot Programs to continue uninterrupted.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the Pilot Programs. For this reason, the Commission designates the proposed rule change to be operative on July 18, 2016.[9]

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[3] *See* Securities Exchange Act Release No. 75482 (July 17, 2015), 80 FR 43807 (July 23, 2015) (SR–ISE–2015–23).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2016–17 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2016–17. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2016–17, and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78339; File No. SR–BatsEDGX–2016–29]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Functionality Offered by the Exchange's Options Platform To: Modify Various Rules To Eliminate the Display-Price Sliding Option; Modify Various Rules To Eliminate Price Improving Orders; and Adopt the Step Up Mechanism

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 11, 2016, Bats EDGX Exchange, Inc. (the "Exchange" or "EDGX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal related to functionality offered by the Exchange's options platform ("EDGX Options") to: (i) Modify various rules to eliminate the display-price sliding option; (ii) modify various rules to eliminate Price Improving Orders, as defined below; and (iii) adopt the Step Up Mechanism, as described below.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is filing this proposal related to functionality offered by EDGX Options to: (i) Modify various rules to eliminate the display-price sliding option; (ii) modify various rules to eliminate Price Improving Orders, as defined below; and (iii) adopt the Step Up Mechanism, as described below.

Elimination of the Display-Price Sliding Option

The Exchange currently offers various forms of sliding which, in all cases, result in the re-pricing of an order to, or ranking and/or display of an order at, a price other than an order's limit price in order to comply with applicable securities laws and/or Exchange rules. Specifically, the Exchange offers: (i) The display-price sliding process, pursuant to Rule 21.1(h); and (ii) the Price Adjust process, pursuant to Rule 21.1(i). Under the display-price sliding process an order that, at the time of entry, would lock or cross a Protected Quotation of another options exchange will be ranked at the locking price in the EDGX Options Book and displayed by the System[5] at one minimum price variation below the current National Best Offer ("NBO")[6] (for bids) or one minimum price variation above the current National Best Bid ("NBB")[7] (for offers). In contrast, under the Price Adjust process, an order that, at the time of entry, would lock or cross a Protected Quotation of another options exchange or the Exchange will be ranked and displayed by the System at one minimum price variation below the current NBO (for bids) or to one minimum price variation above the current NBB (for offers). Thus, the two primary differences between the display-price sliding process and the Price Adjust process are: (i) The ranking of an order at a more aggressive price than the price at which it is displayed (the display-price sliding process) versus ranking and displaying an order at the same price (the Price Adjust process); and (ii) sliding of an order that would lock or cross a Protected Quotation of another options exchange but not an order displayed by the Exchange (the display-price sliding process) or the sliding of an order that would lock or cross a Protected Quotation of another options exchange or the exchange (the Price Adjust process).

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] *See* Exchange Rule 16.1(a)(59) (defining the term System as the automated trading system used by EDGX Options for the trading of options contracts).

[6] *See* Exchange Rule 16.1(a)(29) (defining the terms "NBB", "NBO", and "NBBO").

Due to the general similarities between the two price sliding processes and to simplify the functionality offered by the Exchange, the Exchange proposes to eliminate the display-price sliding process for EDGX Options. In order to effect this change the Exchange proposes to delete Rule 21.1(h) in its entirety and to remove references to display-price sliding in paragraphs (d)(7) and (d)(8) of Rule 21.1, paragraph (f) of Rule 21.6 and paragraph (a)(1)(B) of Rule 21.9. The Exchange also proposes to delete Rule 21.1(j), which describes the relative handling of orders subject to the display-price sliding process and the Price Adjust process, as such provision is no longer necessary with the elimination of the display-price sliding process. The Exchange also proposes to capitalize the reference to the Price Adjust process in Rule 21.9(a)(1)(B) to achieve consistency with the rest of the Exchange's rules.

In addition to the changes described above, the Exchange proposes to make the Price Adjust process the default price sliding functionality. Specifically, the Exchange proposes to modify Rule 21.1(d)(7), which currently designates the display-price sliding process as the default, to instead state that the Price Adjust process is the default, unless otherwise specified by a User.

Elimination of Price Improving Orders

Price Improving Orders are orders to buy or sell an option at a specified price at an increment smaller than the minimum price variation in the security.[8] Price Improving Orders may be entered in increments as small as (1) one cent. Price Improving Orders are displayed at the minimum price variation in the security and shall be rounded up for sell orders and rounded down for buy orders. Unless a User[9] has entered instructions not to do so, Price Improving Orders are currently subject to the display-price sliding process, as described above.

The Exchange proposes to eliminate Price Improving Orders on EDGX Options in order to simplify System functionality. To effect this change, the Exchange proposes to delete paragraph (d)(6) from Rule 21.1(d) in its entirety. The Exchange also proposes to remove a reference to Price Improving Orders contained in Rule 18.4(f)(2).

Step Up Mechanism

The Exchange proposes to adopt a rule that governs the operation of its new Step Up Mechanism ("SUM" or the "SUM process"). As proposed, SUM is a feature within the Exchange's System that would provide automated order handling in designated classes for qualifying orders that are not automatically executed by the System. Regarding SUM eligibility, the Exchange shall designate eligible order size, eligible order type, eligible order origin code (*e.g.,* Priority Customer Orders, non-Market Maker non-Priority Customer orders, and Market Maker orders),[10] and classes in which SUM shall be activated. SUM shall automatically process upon receipt of: (i) An eligible order that is marketable against the Exchange's disseminated quotation while that quotation is not the national best bid or offer ("NBBO"); or (ii) an eligible order that would improve the Exchange's disseminated quotation and that is marketable against quotations disseminated by other exchanges that are participants in the Options Order Protection and Locked/Crossed Market Plan (the "Linkage Plan").

For order handling and responses regarding SUM, orders that are received by SUM pursuant to the paragraph above shall be electronically exposed at the NBBO immediately upon receipt. The exposure shall be for a period of time determined by the Exchange on a class-by-class basis, which period of time shall not exceed one second. All Users will be permitted to submit responses to the exposure message during the exposure period. Responses (i) must be limited to the size of the order being exposed; (ii) may be modified, cancelled and/or replaced any time during the exposure period; and (iii) will be cancelled back at the end of the exposure period if unexecuted.

Regarding the allocation of exposed orders, any responses priced at the prevailing NBBO or better shall immediately trade against the order (on a first come, first served basis). If during the exposure period the Exchange receives an unrelated order (or quote) on the opposite side of the market from the exposed order that could trade against the exposed order at the prevailing NBBO price or better, then the orders will trade at the prevailing NBBO price. The exposure period shall not terminate if a quantity remains on the exposed order after such trade. Responses that are not immediately executable based on the prevailing NBBO may become executable during the exposure period based on changes to the NBBO. In the event of a change to the NBBO and at the conclusion of the exposure period, the Exchange will evaluate remaining responses as well as the disseminated best bid/offer on other exchanges and execute any remaining portion of the exposed order to the fullest extent possible at the best price(s) by executing against responses and unrelated orders (pursuant to the matching algorithm in effect for the class). Following the exposure period, the Exchange will route the remaining portion of the exposed order to other exchanges, unless otherwise instructed by the User. Any portion of a routed order that returns unfilled shall trade against the Exchange's best bid/offer unless another exchange is quoting at a better price in which case new orders shall be generated and routed to trade against such better prices. All executions on the Exchange pursuant to this paragraph shall comply with Rule 27.2 (Order Protection).

Regarding the early termination of the exposure period, in addition to the receipt of a response (or unrelated order or quote) to trade the entire exposed order at the NBBO or better, the exposure period will also terminate early: (i) If during the exposure period the NBBO updates such that the exposed order is no longer marketable against the prevailing NBBO; or (ii) if during the exposure of an order the Exchange is displaying an unrelated order on the same side of the market as the exposed order and such displayed order is subsequently locked or crossed by another options exchange. When the exposure period terminates early, the exposed order shall be processed in accordance with paragraph (c) of the proposed Rule (which regards allocation of exposed orders).

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[7] *Id.*

[8] *See* Exchange Rule 21.1(d)(6).

[9] The term "User" means any Options Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3 (Access). *See* Exchange Rule 16.1(a)(63).

[10] *See* Exchange Rule 16.1(a)(45) (defining "Priority Customer" and "Priority Customer") and Exchange Rule 16.1(a)(37) (defining "Market Maker").

The purpose of the proposed change is to provide all Exchange Users with the opportunity to improve their prices and "step up" to meet the NBBO in order to interact with orders sent to the Exchange. This will allow the market participant sending an order to EDGX Options to increase its chances of receiving an execution at EDGX Options (the market participant's chosen venue) instead of having the order be routed to another exchange. This "step up" process allows market participants to take into account factors beyond just disseminated prices, such as execution costs, system reliability, and quality of service, when determining the exchange to which to route an order. A market participant that prefers EDGX Options due to some combination of these other factors will know that, even if EDGX Options is not displaying a price that is the NBBO, the market participant may still receive an execution at EDGX Options because another User may "step up" to match the NBBO. Further, SUM and the "step up" process enable Users to add liquidity that is available to interact with orders sent to the Exchange. Indeed, when a User on EDGX Options "steps up" to match the NBBO that is displayed on another exchange, more contracts may be executed at this NBBO price on EDGX Options than are available at that same price on the other exchange.

The Exchange's proposed SUM and the "step up" process are not novel concepts. As proposed, SUM is similar to the Hybrid Agency Liaison ("CBOE HAL") offered on the Chicago Board Options Exchange, Incorporated ("CBOE"), which provides the same manner of "step up" process and has been approved by the Commission.[11] One difference between CBOE HAL and the proposed SUM is that CBOE HAL operates on CBOE's Hybrid Trading System, which combines both open outcry and electronic trading, whereas the proposed SUM would be entirely electronic (as EDGX Options is an all-electronic exchange). The proposed SUM rule does not incorporate CBOE HAL language regarding Hybrid.[12]

Another difference is that on CBOE HAL, only Market-Makers with an appointment in the relevant option class and Trading Permit Holders acting as agent for orders resting at the top of CBOE's book in the relevant option series opposite the order submitted to CBOE HAL may submit responses to the exposure message during the exposure period (unless CBOE determines, on a class-by-class basis, to allow all Trading Permit Holders to submit responses to the exposure message). The Exchange has determined that, on its proposed SUM, all Users may submit responses to the exposure message during the exposure period. This difference leads to various differences between the proposed rule applicable to SUM and the rule applicable to CBOE HAL. Specifically, pursuant to CBOE HAL, an order will not be exposed if the CBOE quotation contains resting orders and does not contain sufficient CBOE Market Maker quotation interest to satisfy the entire order. The Exchange did not propose this language or limitation because the proposed SUM process is not dependent only on Market Maker interest in any way, but rather, seeks to expose the order for execution to all participants on EDGX Options. Also, Interpretation and Policy .01 to CBOE Rule 6.14A (the CBOE rule regarding HAL), which prohibits the redistribution of exposure messages to market participants not eligible to respond to such messages (except in classes in which CBOE allows all Trading Permit Holders to respond to such messages) does not apply to the proposed SUM, as all Users of EDGX Options are permitted to respond to all exposure messages.[13]

The Exchange has also proposed different criteria for early termination of an exposure period than those reasons set forth in the corresponding CBOE rule regarding HAL. Although an exposure period will terminate early if an order is executed in full, the Exchange moved this provision to a separate section of the proposed rule. CBOE also terminates an exposure period in slightly different circumstances than the Exchange has proposed, including when a same side order is received by CBOE, if CBOE Market Maker interest decrements to an amount equal to the size of the exposed order and if the underlying security enters a limit up limit down state. While the Exchange does not believe early termination is necessary for SUM under any of these reasons, the Exchange has proposed to terminate an exposure period early in two other scenarios not covered by HAL, specifically when the exposed order is no longer marketable against the NBBO or if a resting order on the Exchange is locked or crossed by another options exchange. Although the early termination section of the proposed rule represents the greatest departure from the HAL rule, the Exchange does not believe that any of these differences raise new policy issues generally with respect to a step up process.

With respect to the early termination scenarios not adopted by the Exchange, the Exchange believes that the fact that a User will have the ability to cancel its order after the SUM process is initiated coupled with the fact that the Exchange will only execute an order that has been exposed via the SUM process to the extent the order is marketable against the NBBO mitigate any potential concern regarding such differences. Further, regarding the additional early termination scenarios specified by the Exchange, the Exchange believes that these are reasonable reasons to terminate the SUM process. Specifically, if an order is no longer marketable, then it cannot be executed through the SUM process so no longer benefits from being exposed. If an order resting on the Exchange is locked or crossed by another options exchange then the Exchange believes that continuing to expose the order could present difficulties with respect to the handling of the resting order and, particularly with respect to a crossing quotation published by another options exchange, that the exposed order, if routable, should be routed to such options exchange for potential price improvement.

In addition to the differences described above, the Exchange has used terminology throughout proposed Rule 21.18 that differs from terminology used in the corresponding CBOE rule regarding HAL in order to retain consistency with other Exchange rules or because the Exchange's System does not operate the same as CBOE (*i.e.*, with respect to market turner and price checks).[14] Further, the Exchange has made various wording and structural changes that the Exchange believes improve the general understandability of the SUM process. The Exchange also included a few additional details not included in the CBOE HAL rule, such as making clear that responses are cancelled at the end of the exposure period if unexecuted, stating that responses may become executable based on changes to the NBBO, and stating that an order will not be exposed when the NBBO is crossed. The Exchange does not believe the terminology used or different wording or structure represents any substantive difference between the proposed SUM process and HAL, but rather, that these are minor improvements to the language of the rule to highlight the exact operation of the proposed SUM process.

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[11] *See* Securities Exchange Act Release No. 60551 (August 20, 2009), 74 FR 43196 (August 26, 2009) (SR–CBOE–2009–040) ("HAL Approval Order").

[12] *See* CBOE Rule 6.14A. The Exchange notes, however, that C2 Options Exchange, Incorporated ("C2"), which has adopted a HAL mechanism as well, is similar to the Exchange in this respect. *See* C2 Rule 6.18. Specifically, like the Exchange, C2 does not have open outcry but is a fully electronic exchange. The Exchange further notes that C2's version of HAL was adopted with certain distinctions from the CBOE's approved HAL rule pursuant to an immediately effective rule filing. *See* Securities Exchange Act Release No. 68573 (January 3, 2013), 78 FR 1889 (January 9, 2013) (SR–C2–2012–043).

[13] The Exchange notes that while different from the CBOE rule, the proposal is identical to the corresponding C2 rule, Rule 6.18. *See id.*

Despite the differences highlighted above, the proposed SUM process would otherwise operate in similar manner to the CBOE HAL, which has been approved by the Commission. The Commission has always been clear that honoring better prices on other markets can be accomplished by matching those better prices.[15] The proposed SUM's "step up" process would allow participants on EDGX Options to do just that. If an EDGX Options User wants to ensure that an order does not go through the proposed SUM process, then that User can submit an order that would not be exposed to SUM.[16]

In addition to Rule 21.18 as described above, the Exchange also proposes to adopt Interpretation and Policy .01 to new Rule 21.18, which will state that all determinations by the Exchange pursuant to Rule 21.18 (*i.e.*, eligible order size, order type, increment, order origin codes and classes) will be announced in a circular to Members and maintained in specifications made publicly available via the Exchange's Web site. The Exchange also proposes to adopt Interpretation and Policy .02 to new Rule 21.18 to make clear that the Exchange will not initiate the SUM process if the NBBO is crossed.

The Exchange also proposes to add references to the proposed SUM process to paragraph (f)(6) of Rule 21.6 and paragraph (a)(1) of Rule 21.9, in both cases to provide a complete list of potential ways an order may be handled by the Exchange. As proposed, Rule 21.9(a)(1) would also make clear that the SUM process is the default order handling process for any routable order.

Finally, the Exchange proposes to adopt paragraph (b)(4) under Rule 21.15 to refer to a new data feed that would be offered by the Exchange in connection with auctions on EDGX Options, including the SUM process. Specifically, the Rule would state that that Auction Feed is an uncompressed data product that provides information regarding the current status of price and size information related to auctions conducted by the Exchange. The Exchange intends to provide data regarding the SUM process to Users via its Multicast PITCH Feed, the main depth of book product offered by the Exchange, but believes that having a separate Auction Feed for Users that wish to receive such information separately is appropriate. The Exchange notes that the proposed language for the Auction Feed is directly based on Rule 11.22(i) of Bats BZX Exchange, Inc. ("BZX"), which describes the BZX equities auction feed applicable to securities listed on BZX. In addition to referencing the Auction Feed in Rule 21.15(b), the Exchange proposes to modify current Rule 21.15(c) to make clear that information regarding Priority Customer Orders and trades will be included in the Auction Feed, just as such information is included on the Exchange's Multicast PITCH Feed today. The Exchange also notes that while SUM is not an auction process, per se, the Exchange believes that the options industry has often grouped step up processes with other auction processes when describing product offerings. Thus, the Exchange does not believe that including SUM information in the Auction Feed will cause any confusion. Further, the Exchange expects to propose additional (more traditional) auction processes over time and intends to include information regarding activity in such auctions in the Auction Feed. The Exchange notes that until additional auctions are proposed and implemented by EDGX Options, information regarding the SUM process would be the only data in the Auction Feed.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the proposal is consistent with Section 6(b)(5) of the Act[18] because it is designed to simplify System functionality and to adopt the SUM process, which is designed to offer market participants greater flexibility with respect to orders entered into the EDGX Options Book, thereby promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in facilitating transactions in securities, removing impediments to, and perfecting the mechanism of, a free and open market and a national market system.

Elimination of the Display-Price Sliding Process and Price Improving Orders

The proposed change to eliminate display-price sliding under Rule 21.1(g) (as well as references to such process elsewhere in Exchange rules) promotes just and equitable principles of trade and fosters cooperation and coordination with persons engaged in facilitating transactions in securities. Similarly, the proposed change to eliminate Price Improving Orders under Rule 21.1(d)(6) (as well as references to such orders elsewhere in Exchange rules) promotes just and equitable principles of trade and fosters cooperation and coordination with persons engaged in facilitating transactions in securities. Specifically, both of the proposed changes are designed to simplify functionality on EDGX Options, particularly as the Exchange begins to adopt new processes such as the SUM process, proposed herein.

Step Up Mechanism

Adopting SUM, a "step up" program, would provide eligible Users on EDGX Options with the opportunity to improve their prices to match the NBBO in order to interact with orders sent to the Exchange. This will allow the market participant sending an order to EDGX Options to increase its chances of receiving an execution at EDGX Options (the market participant's chosen venue) instead of having the order be routed to another exchange. This "step up" process allows market participants to take into account factors beyond just disseminated prices, such as execution costs, system reliability, and quality of service, when determining the exchange to which to route an order. A market participant that prefers EDGX Options due to some combination of these other factors will know that, even if EDGX Options is not displaying a price that is the NBBO, the market participant may still receive an execution at EDGX Options because another User may "step up" to match the NBBO. Therefore, the fact that SUM allows a market participant who elects to send an order to EDGX Options to have a greater likelihood of achieving execution at this chosen venue without the risk of paying a lower price removes an impediment to and perfects the mechanism for a free and open national market system. Further, SUM and the "step up" process enable Users to add liquidity that is available to interact with orders sent to the Exchange. Indeed, when a User "steps up" to match the NBBO that is displayed on another exchange, more contracts may be executed at this NBBO price on EDGX Options than are available at that same price on the other exchange. This increased liquidity benefits all market participants on EDGX Options, thereby perfecting the mechanism for a free and open national market system and protecting investors and the public interest.

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[14] The Exchange did not include language included in the corresponding rule for CBOE HAL related to a price check parameters, as the Exchange does not have the same price check process as CBOE. That said, all orders exposed via SUM will be subject to the same price checks as all other orders on EDGX Options, including but not limited to, collars applicable to market orders and executions only within the NBBO.

[15] For example, in adopting the Order Protection Rule (Rule 611) under Regulation NMS in 2005, the Commission stated: "The Order Protection Rule generally requires that trading centers match the best quoted prices, cancel orders without an execution, or route orders to the trading centers quoting the best prices." *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005), at 37525 (S7–10–04).

[16] A User will be able to opt-out of SUM by including a specific field in their orders submitted to the Exchange. As noted below, unless otherwise specified, all routable orders will be subject to SUM. Details regarding the ability to opt-out of SUM will be set forth in the Exchange's order entry specifications, which are made publicly available to all Users.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

The Exchange's proposed SUM process is similar to CBOE HAL, which provides the same manner of "step up" process. The differences between CBOE HAL and the proposed SUM process are described elsewhere in the proposal and the Exchange believes each relates either to the language used to describe each respective process or to the specific way that the Exchange's System operates generally or specifically with respect to SUM as compared to CBOE's implementation of HAL. The Exchange does not believe that any of these differences raise any new or significant policy concerns. Further, despite these differences, the proposed SUM process would otherwise operate in a similar manner to the CBOE HAL, which has been approved by the Commission.[19] As such, the Exchange merely desires to adopt a mechanism that is similar to one that already exists on CBOE and other exchanges. Permitting the Exchange to operate on an even playing field relative to other exchanges removes impediments to and perfects the mechanism for a free and open market and a national market system.

The Commission has always been clear that honoring better prices on other markets can be accomplished by matching those better prices.[20] The proposed SUM's "step up" process would allow participants on EDGX Options to do just that.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange does not believe the proposed rule changes regarding display price sliding and Price Improving Orders impact competition, but rather, that the changes will help to reduce the complexity of the operation of EDGX Options.

The Exchange does not believe that the proposed rule change to adopt the SUM process will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposed SUM is open to all market participants. The "step-up" feature of the proposed SUM allows for execution at the NBBO or price improvement. When such price improvement is achieved via this "stepping up" to meet (or beat) the best quoted price at another exchange, market participants are able to receive the best quoted price while still achieving execution on EDGX Options, the exchange to which they elected to send their orders. As noted above, the SUM process is similar to processes offered by at least one other options exchange that competes with the Exchange, and therefore the proposal is a pro-competitive proposal.

For all the reasons stated above, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[23] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[24] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the 30-day operative delay would allow the Exchange to immediately provide functionality on EDGX Options that is similar to functionality provided by other options exchanges, including but not limited to, CBOE and C2. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[25]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

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[19] *See* HAL Approval Order, *supra* note 11.

[20] *See supra,* note 14.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[23] 17 CFR 240.19b–4(f)(6).

[24] 17 CFR 240.19b–4(f)(6)(iii).

[25] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGX–2016–29 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGX–2016–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGX–2016–29, and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17194 Filed 7–20–16; 8:45 am]

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[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78347; File No. SR–FICC–2016–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of Proposed Rule Change To Describe the Blackout Period Exposure Charge That May Be Imposed on GCF Repo Participants

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 12, 2016, Fixed Income Clearing Corporation ("FICC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend the Government Securities Division ("GSD") Rulebook (the "GSD Rules")[3] to include a margin charge increase (the "Blackout Period Exposure Charge" as further described below) that may be imposed on Netting Members that participate in the GCF Repo® service ("GCF Repo Participants"). The charge would be imposed at the beginning of each month for GCF Repo Participants whose portfolios experience backtesting deficiencies attributable to such Participants' use of mortgage-backed securities ("MBS") as collateral for GCF Repo Transactions. The charge is designed to mitigate FICC's exposure resulting from potential decreases in the collateral value of MBS pools that occur during the monthly Blackout Period (as defined and discussed below). The proposed rule change would amend GSD Rule 1 (Definitions) to add certain defined terms and would amend Section 1b of GSD Rule 4 (Clearing Fund and Loss Allocations) to include the Blackout Period Exposure Charge and the manner in which FICC determines and imposes such charge. FICC is filing this proposed rule change in order to provide transparency in the GSD Rules with respect to this existing charge.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change provides transparency in the GSD Rules with respect to the Blackout Period Exposure Charge, which FICC may temporarily impose on a GCF Repo Participant as part of such GCF Repo Participant's Required Fund Deposit. FICC imposes the Blackout Period Exposure Charge where FICC determines, based on prior backtesting deficiencies of such GCF Repo Participant's Required Fund Deposit, that the GCF Repo Participant may experience a deficiency due to reductions in the notional value of the MBS used by such GCF Repo Participant to collateralize its GCF Repo trading activity that occur during the monthly Blackout Period. Because this reduction in notional value that occurs during the Blackout Period is not reflected on GCF Clearing Agent Banks' collateral reports to FICC until after the Blackout Period ends, the value of GCF Repo Participants' collateral may be overstated during this period, creating an exposure for FICC that may not be covered by such Participants' Required Fund Deposits. The Blackout Period Exposure Charge is designed to mitigate that risk to FICC.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The GSD Rules are available at *http://www.dtcc.com/legal/rules-and-procedures.* Capitalized terms used herein and not otherwise defined shall have the meaning assigned to such terms in the GSD Rules.

(i) Background

A. GCF Repo Service and the Required Fund Deposit

The GCF Repo service enables GCF Repo Participants to trade general collateral repurchase agreements based on rate, term and underlying product throughout the day, without requiring intraday, trade-for-trade settlement on a delivery-versus-payment basis. On each trading day, GCF Repo Participants must allocate appropriate collateral to FICC's account at the GCF Repo Participant's GCF Clearing Agent Bank to cover their repurchase obligations.[4] FICC accepts MBS as eligible securities for such collateral allocations.[5] Additionally, FICC collects Required Fund Deposits from all Netting Members (including GCF Repo Participants) to protect FICC against losses in the event of a Netting Member's default.

The Required Fund Deposit serves as each Netting Member's margin. The objective of the Required Fund Deposit is to mitigate potential losses to FICC associated with liquidation of the Netting Member's portfolio in the event that FICC ceases to act for a Netting Member (hereinafter referred to as a "default"). FICC determines Required Fund Deposit amounts using a risk-based margin methodology that is intended to capture market price risk. The methodology uses historical market moves to project or forecast the potential gains or losses on the liquidation of a defaulting Netting Member's portfolio, assuming that a portfolio would take three days to liquidate or hedge in normal market conditions. The projected liquidation gains or losses are used to determine the Netting Member's Required Fund Deposit, which is calculated to cover projected liquidation losses at a 99 percent confidence level. The aggregate of all Netting Members' Required Fund Deposits constitutes FICC's Clearing Fund, which FICC would be able to access should a defaulting Netting Member's own Required Fund Deposit be insufficient to satisfy losses to FICC caused by the liquidation of that Netting Member's portfolio.

FICC employs daily backtesting to determine the adequacy of each Netting Member's Required Fund Deposit. FICC compares the Required Fund Deposit[6] for each Netting Member with the simulated liquidation gains/losses using the actual positions in the Netting Member's portfolio, including the actual allocated collateral of GCF Repo Participants, and the actual historical security returns. FICC investigates the cause(s) of any deficiencies. As a part of this process, FICC pays particular attention to Netting Members with backtesting deficiencies that bring the results for that Netting Member below the 99 percent confidence target (*i.e.*, greater than two deficiency days in a rolling twelve-month period) to determine if there is an identifiable cause of repeat deficiencies. FICC also evaluates whether multiple Netting Members may experience deficiencies for the same underlying reason.

B. MBS and the Blackout Period

While there can be multiple factors that contribute to a deficiency, FICC has identified that GCF Repo Participants that pledge substantial amounts of MBS collateral in respect of their GCF Repo Transactions may experience backtesting deficiencies due to an overvaluation of MBS collateral that can occur during the Blackout Period (as further described below).

FICC only accepts MBS that are issued and guaranteed by U.S. government-sponsored entities ("GSEs"). Because MBS are composed of pools of mortgages as to which the principal balances are reduced over time through scheduled and unscheduled payments by mortgagors, MBS notional values also reduce over time. Investors in MBS issued by the GSEs are informed of the amount of this reduction in value on a monthly basis when the GSEs release new "Pool Factors" for their MBS at the beginning of every month.[7] The period between the last business day of the prior month (the "Record Date") and the date on which the GSE releases its new Pool Factors (the "Factor Date") is known as the "Blackout Period."[8] During the Blackout Period, MBS values may be overstated because of uncertainty concerning the remaining principal balances of the MBS and thus the amount guaranteed by the issuing GSE.

FICC has identified that GCF Repo Participants may experience backtesting deficiencies during the Blackout Period if they allocate substantial amounts of MBS collateral to cover their repurchase obligations. Such deficiencies occur because the value of MBS collateral allocated to cover GCF Repo Participants' repurchase obligations may be overstated on the collateral reports delivered to FICC by the GCF Clearing Agent Banks, which rely on the prior month's Pool Factors to value MBS collateral pledged by GCF Repo Participants. The Blackout Period Exposure Charge is designed to mitigate the risk posed to FICC by such deficiencies by temporarily increasing such GCF Repo Participants' Required Fund Deposits.

C. Calculation of the Blackout Period Exposure Charge

The objective of the Blackout Period Exposure Charge is to increase Required Fund Deposits for GCF Repo Participants that are likely to experience backtesting deficiencies on the basis described above by an amount sufficient to maintain such GCF Repo Participants' backtesting coverage above the 99 percent confidence threshold. Because the size of the backtesting deficiencies caused by this issue varies among impacted GCF Repo Participants, FICC must assess a Blackout Period Exposure Charge that is specific to each impacted GCF Repo Participant. To do so, FICC examines each impacted GCF Repo Participant's historical backtesting deficiencies to identify the two largest deficiencies that have occurred during the 12-month look-back period. FICC then employs an amount equal to the *midpoint* between the two largest historical deficiencies for such member as the presumptive Blackout Period Exposure Charge amount, subject to adjustment as further described below. Although an increase equal to the third largest historical deficiency would suffice to bring the GCF Repo Participant's historically-observed backtesting coverage above the 99 percent target[9] if deficiencies due to Blackout Period exposures were the only deficiencies experienced, such an approach would fail to take into account potential changes in such GCF Repo Participant's MBS collateral pledges or other factors that could contribute to deficiencies during this period. Consequently, FICC has determined to use the midpoint between the two largest historical deficiencies as an amount that is (i) particular to the GCF Repo Participant and its use of MBS collateral and (ii) generally provides a reasonable buffer above the historically observed minimum increase necessary to achieve 99 percent coverage. The resulting Blackout Period Exposure Charge is added to the VaR Charge for such GCF Repo Participant determined pursuant to FICC's risk-based margining methodology. The Blackout Period Exposure Charge is only imposed during the Blackout Period, until the GCF Repo Participant's GCF Clearing Agent Bank updates the Pool Factors it uses to value MBS collateral.[10]

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[4] GSD Rule 20 Section 3.

[5] *Id.*

[6] For backtesting comparisons, FICC uses the Required Fund Deposit amount, without regard to the actual collateral posted by the Netting Member.

[7] Pool Factors are stated as a percentage amount of the initial aggregate face value of the security that remains unpaid on the underlying mortgage pool. For example, if the face amount of a mortgage-backed security were $100,000 and the stated pool factor were 0.4587, the remaining principal balance in the security to be paid to the investor would be $45,870.

[8] The Factor Date is typically the fourth or fifth business day of each calendar month.

[9] Each deficiency reduces backtesting coverage by 0.4 percent (1 exception/250 observation days). Accordingly, an increase equal to the third largest deficiency would bring backtesting coverage up to 99.2 percent.

This charge is applicable only to those GCF Repo Participants that have two or more backtesting deficiencies that occurred during the Blackout Period and whose overall 12-month trailing backtesting coverage falls below the 99 percent coverage target.

Although the midpoint between the two largest historical Blackout Period deficiencies for a GCF Repo Participant will be used as the Blackout Period Exposure Charge in most cases, under the proposed rule FICC retains discretion to adjust the charge amount based upon other circumstances that may be relevant for assessing whether an impacted GCF Repo Participant is likely to experience future Blackout Period backtesting deficiencies and the estimated size of such deficiencies. Examples of relevant circumstances include material differences in the two largest deficiencies, variability in a GCF Repo Participant's use of MBS for collateral allocation, and variability in the magnitude of Pool Factor changes for certain categories of MBS. Based on FICC's assessment of the impact of these circumstances on the likelihood of, and estimated size of, future Blackout Period deficiencies for a GCF Repo Participant, FICC may, in its discretion, adjust the Blackout Period Exposure Charge for such Participant to an amount that FICC determines to be more appropriate for maintaining such GCF Repo Participant's backtesting results above the 99 percent coverage threshold (including a reasonable buffer).

D. Communication With GCF Repo Participants and Imposition of the Charge

If FICC determines that a Blackout Period Exposure Charge should apply to a GCF Repo Participant who was not assessed a Blackout Period Exposure Charge during the immediately preceding month or that the Blackout Period Exposure Charge applied to a GCF Repo Participant during the previous month should be increased, FICC will notify the Participant on or around the 25th calendar day of the month. This notification permits the Participant to avoid or decrease the charge by notifying FICC in writing of its intent to remove or reduce its use of MBS in collateral allocations during the Blackout Period. If such Participant elects not to adjust its portfolio (or fails to do so despite such notification to FICC), then FICC will impose a Blackout Period Exposure Charge as determined above.

FICC imposes the Blackout Period Exposure Charge as an increase to each impacted GCF Repo Participant's Required Fund Deposit. The charge is imposed only during the Blackout Period: It is applied as of the morning Clearing Fund call on the Record Date through and including the intraday Clearing Fund call on the Factor Date, or until the Pool Factors have been updated to reflect the current month's Pool Factors in the GCF Clearing Agent Bank's collateral reports. Thereafter the charge is removed because updated MBS valuations are incorporated into FICC's risk-based margining methodology for the remainder of the month, alleviating the risk of potentially overvalued MBS collateral that occurs during Blackout Period. This process is repeated monthly.

If changes in an impacted GCF Repo Participant's MBS collateral pledges over time materially reduce the Blackout Period Exposure Charge calculated pursuant to the procedures described above, FICC may in its discretion reduce the Blackout Period Exposure Charge and would so notify the Participant. If an impacted GCF Repo Participant's trailing 12-month backtesting coverage exceeds 99 percent (without taking into account historically-imposed Blackout Period Exposure Charges), the Blackout Period Exposure Charge would be removed.

2. Statutory Basis

Section 17A(b)(3)(F)[11] of the Act, requires, in part, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds that are within the custody or control of the clearing agency. Rule 17Ad–22(b)(1) under the Act requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to measure its credit exposures to its participants at least once a day and limit its exposures to potential losses from defaults by its participants under normal market conditions, so that the operations of the clearing agency would not be disrupted and non-defaulting participants would not be exposed to losses that they cannot anticipate or control.[12] Rule 17Ad–22(b)(2) under the Act requires a clearing agency to maintain and enforce written policies and procedures reasonably designed to use margin requirements to limit its credit exposures to participants under normal market conditions.[13] FICC's Blackout Period Exposure Charge is calculated and imposed to cover credit exposures estimated by FICC based on a GCF Repo Participant's trailing 12-month backtesting results with the goal of maintaining such Participant's Required Fund Deposit above the 99 percent coverage threshold. This management of FICC's credit exposures to GCF Repo Participants is consistent with Rule 17Ad–22(b)(1) under the Act. Further, when it is imposed, the charge is a component of the applicable GCF Repo Participant's Required Fund Deposit, or margin, and is intended to maintain coverage of FICC's credit exposures to such GCF Repo Participant at a confidence level of at least 99 percent. This limits FICC's exposures to GCF Repo Participants under normal market conditions. It therefore is also consistent with Rule 17Ad–22(b)(2) under the Act.

By incorporating the Blackout Period Exposure Charge into the GSD Rules, the proposed change addresses an exposure that could subject FICC to potential losses under normal market conditions due to potentially overstated values of MBS pledged as collateral for GCF Repo Transactions in the event that a GCF Repo Participant defaults during the Blackout Period. Therefore, FICC believes the proposed rule change enhances the safeguarding of securities and funds that are in the custody or control of FICC, consistent with Section 17(b)(3)(F) of the Act.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate.[14] The proposed charge is necessary for FICC to limit its exposure to potential losses from defaults by its participants, and it is imposed on GCF Repo Participants on an individualized basis in an amount reasonably calculated to maintain their Required Fund Deposits above FICC's 99 percent coverage threshold. The charge only applies to GCF Repo Participants that use MBS collateral pledges in an amount that generates Blackout Period backtesting deficiencies specific to such GCF Repo Participants.

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[10] The GCF Clearing Agent Banks typically have a one-day lag in updating their databases with the most recent Pool Factor information.

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(b)(1).

[13] 17 CFR 240.17Ad–22(b)(2).

[14] 15 U.S.C. 78q–1(b)(3)(I).

FICC employs reasonable methods to calculate and impose an individualized charge in an amount designed to maintain each impacted GCF Repo Participant's future backtesting coverage above the 99 percent coverage threshold, including a reasonable buffer. Additionally, prior to imposing the Blackout Period Exposure Charge, FICC notifies each impacted GCF Repo Participant and provides it the opportunity to adjust its use of MBS collateral pledges in order to avoid having the charge applied to its Required Fund Deposit or to reduce the amount of such charge.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received any written comments relating to this proposal. FICC will notify the Commission of any written comments received.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2016–003 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2016–003. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FICC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*).

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–FICC–2016–003 and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17200 Filed 7–20–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78348; File No. SR–NYSEMKT–2016–48]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change To Amend Certain Rules Related to Flexible Exchange Options

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 1, 2016, NYSE MKT LLC ("NYSE MKT" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain rules related to Flexible Exchange ("FLEX") Options. The proposed change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend certain rules related to FLEX Options, as described below.

FLEX Options are customized equity or index contracts that allow investors to tailor contract terms for exchange-listed equity and index options.[3] The Exchange is proposing to modify rules related to FLEX Options to offer new alternative terms for FLEX Options and to update rule text to more accurately reflect trading in FLEX Options on the Exchange.

FLEX Options for Binary Return Derivatives Contracts ("ByRDs")

The Exchange proposes to modify its rules to enable market participants to trade customized—or FLEX—options contracts in ByRDs.[4] Specifically, the

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[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See generally* Section 15, Flexible Exchange Options, Rules 900G–909G.

[4] ByRDs are European-style option contracts on individual stocks, exchange-traded funds ("ETFs") Continued

Exchange proposes to add a new definition of "FLEX ByRDs," which would be a "Binary Return Derivatives contract on any ByRDs-eligible underlying security that is subject to the rules in this Section." [5] The Exchange also proposes to revise Rule 900G(b)(16) to include FLEX ByRDs in the definition of "Series of FLEX Options." [6] The Exchange believes that FLEX ByRDs would enable market participants to negotiate terms that differ from standardized ByRDs, which would, in turn, provide greater opportunities for investors to manage risk through the use of FLEX Options.[7]

Additional Settlement Styles for FLEX Options: Asian, Cliquet and VWAP Style

In addition, the Exchange proposes to permit parties to designate additional settlement styles for FLEX Options.[8] Specifically, the Exchange proposes to permit parties to FLEX Index Options to designate Asian style settlement and Cliquet style settlement, both of which are currently offered on another options exchange.[9]

As proposed in new paragraph (b)(4) of Rule 903G and new paragraph (b)(18) of Rule 900G, FLEX Index Options with Asian style settlement would be cash-settled call [10] option contracts for which the final payout would be based on an arithmetic average of specified closing prices of an underlying broad-based index taken on twelve predetermined monthly observation dates, including the expiration date ("Asian option"). The monthly observation dates would be determined by working backwards from the farthest out observation date prior to the expiration date. When the scheduled observation date for an Asian option occurs on a holiday or a weekend, the observation would occur on the immediately preceding business day. The exercise settlement amount for Asian options would be calculated similarly to other options (*i.e.*, the difference between the strike price and the averaged settlement value would determine the value, or "moneyness" of the contract at expiration). Asian options would have a term of approximately one year and would expire anytime from 350 to 371 days (*i.e.*, approximately 50 to 53 calendar weeks) from the date of initial listing. The contract multiplier (or Index Multiplier) for an Asian option that settles in U.S. dollars, for example, would be $100.[11] Finally, because settlement value is determined by observations taken over a 12-month period, Asian style settlement requires European-style exercise.

An example of an Asian FLEX call option expiring in-the-money follows. On January 21, 2015, an investor hedging the value of XYZ Index over a year purchases a call option expiring on January 22, 2016 with a strike price of 2000 and a contract multiplier of $100. The option has monthly observation dates occurring on the 23rd of each month.

Monthly observation date	XYZ Index closing value
23–Feb–15	2025.36
23–Mar–15	2049.34
23–Apr–15	2019.77
22–May–15 *	1989.65
23–Jun–15	2005.64
23–Jul–15	2035.10
21–Aug–15 *	2032.15
23–Sep–15	2076.18
23–Oct–15	2099.01
23–Nov–15	2109.32
23–Dec–15	2085.42
22–Jan–16	2084.81
Exercise (Averaged) Settlement Value	24,611.75/12 = 2050.98

* Because Asian FLEX options use the "preceding business day convention," the dates of May 23, 2015 and August 23, 2015, were not used in the above example because those dates will fall on a weekend or a holiday. Instead the business days immediately preceding those dates were used as the monthly observation date.

If, in the above example, the strike price for the Asian FLEX call option was 2060, that contract would have expired out-of-the-money. This is because the exercise settlement value for this 2060 call option is equal to 2050.98 (when rounded). Since the strike price of 2060 is more than the 2050.98 exercise settlement value, this option would not be exercised and would expire worthless.

As proposed in new paragraph (b)(5) of Rule 903G and new paragraph (b)(19) of Rule 900G, FLEX Index Options with Cliquet style settlement would be cash-settled call option contracts for which the final payout would be based on the sum of monthly returns (*i.e.*, percent changes in the closing value of the underlying broad-based index from one month to the next), subject to a monthly return "cap" (*e.g.*, 3%), applied over twelve monthly observation dates ("Cliquet option"). Cliquet options would have a term of approximately one year and would expire anytime from 350 to 371 days (which is approximately 50 to 53 calendar weeks) from the date of initial listing. The contract multiplier for a Cliquet option that settles in U.S. dollars, for example, would be $100.[12]

The parties to a Cliquet option would designate a set of monthly observation dates for each contract and an expiration date for each contract. The monthly observation date would be the date each month on which the price of the underlying broad-based index would be observed for the purpose of calculating the exercise settlement value for Cliquet FLEX Options. Each Cliquet FLEX Option would have 12 consecutive monthly observation dates (which includes an observation on the expiration date) and each observation would be based on the closing price of the underlying broad-based index. The specific monthly observation dates would be determined by working backwards from the farthest out observation date prior to the expiration date. When the scheduled observation date for a Cliquet option occurs on a holiday or a weekend, the observation

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and Section 107 that have a fixed return in cash based on a set strike price; satisfy specified listing criteria; and may only be exercised at expiration pursuant to the Rules of the Options Clearing Corporation (the "OCC"). *See* Rules 900ByRDs(b), 915ByRDs.

[5] *See* proposed Rule 900G(b)(17).

[6] *See* proposed Rule 900G(b)(16) (proposing to add that a "Series of FLEX Options" would include, in the case of FLEX ByRDs, all such option contracts of the same class having the same expiration date, strike price, and exercise settlement amount).

[7] The Exchange also proposes to modify Rule 903G(c)(3)(iii) to provide that FLEX ByRDs must be settled the same as non-FLEX ByRDs. *See* proposed Rule 903G(c)(3)(iii) (discussed herein under "Additional Updates to Reflect Trading in FLEX Options"); *see also* Rule 910ByRDs (Determination of the Settlement Price of ByRDs). As ByRDs are settled based on the Volume-Weighted Average Price of the underlying security (*see id.*), the Exchange proposes to add new paragraphs (b)(20) of Rule 900G and (c)(5) of Rule 903G to permit parties to a FLEX Option to designate a VWAP Settlement (discussed below under "Additional Settlement Styles for FLEX Options: Asian, Cliquet and VWAP Style").

[8] Unless otherwise specified herein, the proposed settlement styles would be subject to the same rules as FLEX Options, including for hours of trading and margin requirements.

[9] *See e.g.,* Chicago Board Options Exchange, Inc. ("CBOE") Rules 24A.1 (Definitions), 24A.4 (Terms of FLEX Options), 24B.1 (Definitions) and 24B.4 (Terms of FLEX Options). FLEX ByRDs could not be settled using Asian or Cliquet settlement. *See, e.g., supra* n. 8.

[10] Puts would not be permitted.

[11] *See* Rule 900G(b)(12) providing that Index Multiplier means the monetary amount, stated in terms of the settlement currency specified in the contract, by which the current index settlement value is to be multiplied to arrive at the value required to be delivered to the holder of a call or the holder of a put upon valid exercise of the option and setting forth the established Index Multipliers for FLEX Index Options on domestic indices).

[12] *See id.*

would occur on the immediately preceding business day. The parties may not designate a subsequent business day convention for Cliquet options.

The parties to a Cliquet option would designate a capped monthly return (percent change in the closing values of the underlying broad-based index from one month to the next month) for the contract, which would be the maximum monthly return that would be included in the calculation of the exercise settlement value for the contract. On each monthly observation date, the Exchange would determine the actual monthly return (the percent change of the underlying broad-based index) using the closing value of the broad-based index on the current monthly observation date and the closing value of the broad-based index on the previous monthly observation date. The Exchange would then compare the actual monthly return to the capped monthly return. The value to be included as the monthly return for a Cliquet option would be the lesser of the actual monthly return or the capped monthly return.

For example, if the actual monthly return of the underlying broad-based index was 1.75% and the designated capped monthly return for a Cliquet option was 2%, the 1.75% value would be included (and not the 2%) as the value for the observation date to determine the exercise settlement value. Using this same example, if the actual monthly return of the underlying broad-based index was 3.30%, the 2% value would be included (and not the 3.30%) as the value of the observation date to determine the exercise settlement value. This latter example illustrates that Cliquet options have a capped upside. Cliquet options do not, however, have a capped downside for the monthly return that would be included in determining the exercise settlement value. Drawing on this same example, if the actual monthly return of the underlying broad-based index was −4.07%, the −4.07% value would be included as the value for the observation date to determine the exercise settlement value. There would be, however, be a global floor for Cliquet options so that if the sum of the monthly returns is negative, a Cliquet option would expire worthless.

Unlike other options, Cliquet options would not have a traditional exercise (strike) price. Rather, the exercise (strike) price field for a Cliquet option would represent the designated capped monthly return for the contract and would be expressed in dollars and cents. For example, a capped monthly return of 2.25% would be represented by the dollar amount of $2.25. The "strike" price for a Cliquet option may only be expressed in a dollar and cents amount and the "strike" price for a Cliquet option may only span a range between $0.05 and $25.95. In addition, the "strike" price for a Cliquet option may only be designated in $0.05 increments, *e.g.*, $1.75, $2.50, $4.15. Increments of $0.01 in the "strike" price field (representing the capped monthly return) would not be permitted.

The first "monthly" return for a Cliquet option would be based on the initial reference value, which would be the closing value of the underlying broad-based index on the date a new Cliquet option is listed. The time period measured for the first "monthly" return would be between the initial listing date and the first monthly observation date. For example, if a Cliquet option was opened on January 1 and the parties designated the 31st of each month as the monthly observation date, the measurement period for the first monthly return would span the time period from January 1 to January 31. The time period measured for the second monthly return, and all subsequent monthly returns, would run from the 31st of one month to the 31st of the next month (or the last Exchange business day of each month depending on the actual number of calendar days in each month covered by the contract).

Cliquet options would have European-style exercise and may not be exercised prior to the expiration date. The exercise settlement value for Cliquet options would be equal to the initial reference price of the underlying broad-based index multiplied by the sum of the monthly returns (with the cap applied) on the 12 consecutive monthly observation dates, which include the expiration date of the option, provided that the sum is greater than 0. If the sum of the monthly returns (with the applied cap) is 0 or a less, the option would expire worthless.

An example of a Cliquet option follows. On January 21, 2015, an investor hedging the value of XYZ Index over a year purchases a Cliquet FLEX call option expiring on January 22, 2016 with a capped monthly return of 2% and a contract multiplier of $100. The initial reference price of XYZ Index (closing value) on January 21, 2015 is 2000. The option has monthly observation dates occurring on the 23rd of each month.

Monthly observation date	XYZ Index closing value (Si)	Actual monthly return (percent)	Capped monthly return (CMRi) (percent)	Sum of monthly returns (percent)
23–Feb–15	2025.36	1.27	1.27	1.27
23–Mar–15	2049.34	1.18	1.18	2.45
23–Apr–15	2019.77	−1.44	−1.44	1.01
22–May–15 *	1989.65	−1.49	−1.49	−0.48
23–Jun–15	2005.64	0.80	0.80	0.32
23–Jul–15	2035.10	1.47	1.47	1.79
21–Aug–15 *	2032.15	–0.14	–0.14	1.65
23–Sep–15	2076.18	2.17	***2.00*	3.65
23–Oct–15	2099.01	1.10	1.10	4.75
23–Nov–15	2109.32	0.49	0.49	5.24
23–Dec–15	2085.42	−1.13	−1.13	4.11
22–Jan–16	2084.81	−0.03	−0.03	4.08
Exercise Settlement Value	[(4.08% * 2000.00)] + 2 = 83.60			

* Because Cliquet FLEX options use the "preceding business day convention," the dates of May 23, 2015, and August 23, 2015, were not used in the above example because those dates fall on a weekend or a holiday. Instead the business days immediately preceding those dates were used as the monthly observation dates.

** Monthly capped return applied.

The "strike price" for a Cliquet option is determined by the agreed upon capped monthly return, which in this example is 2%. The Exercise Settlement Value ("ESV") is the greater of zero (0) or [(Closing price of index on trade date * sum of capped returns) + Strike Price]. However, as with standard options, the Total Return, or payout, at expiration is based on how much the ESV exceeds the Strike Price (*i.e.*, the ESV minus the Strike Price). Thus, in this example, the ESV for this January 22, 2016 Cliquet option is 83.60, which exceeds the Strike Price by 81.60. The contract multiplier ($100) is then applied (81.60 * $100) resulting in $8,160 as the cash settlement between the writer of the contract and the buyer of the contract. If the sum of the monthly capped returns had been negative, this option would have expired worthless.

Finally, the Exchange proposes to permit parties to a FLEX Equity Option or a FLEX ByRD to designate a "VWAP Settlement," wherein the settlement value of a FLEX Option would be determined by the Volume-Weighted Average Price (or VWAP) of the underlying on the expiration day of the contract. Specifically, as proposed in new paragraphs (b)(20) of Rule 900G and (c)(5) of Rule 903G, parties to FLEX Options may designate VWAP settlement with call or put options and the settlement price would be calculated as the amount in which the VWAP of all reported transactions in the underlying security (rounded to $0.01) on the expiration date exceed the agreed upon "exercise (strike) price" of the option. Because the settlement value is not determined until the date of expiration, FLEX Options with a VWAP Settlement have European-style exercise. The Exchange notes that VWAP transactions are becoming increasingly popular in the equities (and options) markets as a means to reduce risks associated with the timing of entering an order during a volatile period, especially with orders for large positions that would disrupt trading if exposed all at once.[13] A VWAP Settlement may also reduce or offset risk at expiration because of volatility on the expiration day. The Exchange believes that by using a VWAP a trader may "smooth" the average price paid or realized for a large position. Thus, as proposed, VWAP Settlement for FLEX Options would provide market participants with a method to offset risk for a large position, regardless of whether the position in the underlying security was established using a VWAP methodology.[14]

Regarding the proposed settlement styles, the Exchange would use the same surveillance procedures currently utilized for the Exchange's other FLEX Options, including FLEX Index Options. The Exchange further represents that these surveillance procedures will be adequate to monitor trading in these option products. For surveillance purposes, the Exchange would have access to information regarding trading activity in the pertinent underlying securities.

FLEX Exercise Prices and Premiums

The Exchange also proposes to modify how exercise prices and premiums for FLEX Options may be expressed, which would reflect recent changes in the marketplace. The Exchange notes that when it adopted rules for FLEX Options, strike prices were designated in one-eighth of a dollar, and options were priced in fractions of a dollar. Now that decimalization has been applied to options trading, including trading in FLEX Options, certain exchange rules have been revised to reflect the decimal equivalent of a previously approved fractional term. Thus, the Exchange proposes to modify current Rule 903G(b)(1) and (c)(2). First, in the case of FLEX Equity Options, the Exchange proposes to modify Rule 903G(c)(2) to clarify that exercise prices and premiums may be stated in:

> (i) A dollar amount; (ii) a method for fixing such a number at the time a FLEX Request for Quote or FLEX Order is traded; or (iii) a percentage of the price of the underlying security at the time of the trade or as of the close of trading on the Exchange on the trade date.[15]

The Exchange notes that this change would align with the Exchange's treatment of FLEX Index Options as well as the rules of other exchanges.[16] In addition, the Exchange proposes to modify Rule 903G(b)(1) and (c)(2) to provide that:

> Exercise prices may be rounded to the nearest minimum tick or other decimal increment determined by the Exchange on a class-by-class basis that may not be smaller than $0.01. Premiums will be rounded to the nearest minimum tick. For exercise prices and premiums stated using a percentage-based methodology, such values may be stated in a percentage increment determined by the Exchange on a class-by-class basis that may not be smaller than 0.01% and will be rounded as provided above.[17]

The Exchange notes that this proposed change is consistent with the rules of another options exchange.[18] In this regard, the Exchange also proposed to modify Rule 903G(a)(3)(i) to eliminate reference to fractional pricing.[19] The Exchange believes this change would provide greater flexibility in terms of describing an option contract tailored to the needs of the investor.

Additional Updates To Reflect Trading in FLEX Options

The Exchange is also proposing the following modifications to streamline and update FLEX Options Rules:

- *"FLEX" Options.* The Exchange proposes to define "FLEX" as shorthand for Flexible Options in the title of Section 15.[20]
- *Floor Market Makers.* The Exchange proposes to replace reference in the FLEX rules to "Registered Options Traders" ("ROT") with "Floor Market Makers," [21] which is consistent with an approval order by the SEC, which provided, that, among other changes, ROTs would be referred to in Exchange rules as Floor Marker Makers.[22]
- *Flex Official.* The Exchange proposes to add the concept of a "FLEX Official" to Rule 900G(b)(21) and new

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[13] The Exchange notes that the settlement price of ByRDs are based on the VWAP, which for a given underlying security means the sum of the dollar value of trades reported to the Consolidated Tape (price multiplied by number of shares traded) divided by the total number of shares traded during the entire last day of trading on the business day of their expiration, or, in the case of an option contract expiring on a day that is not a business day, on the business day prior to expiration. *See* Rule 910ByRDs (Determination of the Settlement Price of ByRDs).

[14] While VWAP Settlement would be available for FLEX Equity Options, as noted herein, FLEX ByRDs would be required to be settled using VWAP Settlement. *See, e.g., supra* n. 8 and proposed Rule 903G(c)(3)(iii).

[15] Current rule 903G(c)(2) provides that "[e]xercise prices and premiums may be stated in dollar amount or percentage of the price of the underlying security, rounded to the nearest minimum price variation (as set forth in Rule 960NY)".

[16] *See, e.g.,* Rule 903G(b)(1); CBOE Rule 24A.4(b)(2) and (c)(2).

[17] *See* proposed Rule 903G(b)(1) and (c)(2).

[18] *See, e.g.,* CBOE Rule 24A.4(b)(2) and (c)(2).

[19] The Exchange also proposes to make a non-substantive changes to paragraphs (a)(3)(ii) and (b)(2) and (3) of Rule 903G to re-locate the semi-colon and to replace a semi-colon with a period, respectively.

[20] *See* proposed Section 15 (Flexible Exchange ("FLEX") Options). The Exchange also proposes to delete an extraneous "t" from the word the in Rule 900G(a).

[21] *See* proposed Rules 900G(b)(4), 906G(a)(iv) and (b), 908G, 909G (updating title of rule) and 909G(b).

[22] *See* Securities and Exchange Act Release No. 59472 (February 27, 2009) 74 FR 9843, 9843, n. 11. (March 6, 2009) (SR–NYSEALTR–2008–14) (in filing for this rule change, the Exchange noted that certain terms in then, NYSE Alternext Rules 900G–909G would "become outdated upon approval of the rules proposed herein" and that the Exchange would file subsequent filings to address these outmoded references). In approving this proposal, the Commission noted that the general term Market Maker in the proposed rules includes, among others, Specialists and Floor Market Makers.

Rule 910G, which position is consistent with another options exchange that trade FLEX Options.[23] In short, a FLEX Official has the regulatory responsibility for reviewing the conformity of FLEX trades to the terms and specifications contained in FLEX rules.[24] Proposed Rule 900G(b)(21) would define a FLEX Official as being an Exchange employee that carries out the duties set forth in proposed Rule 910G, FLEX Official. Pursuant to proposed Rule 910G(a), the Exchange may at any time designate an Exchange employee to act as a FLEX Official in one or more classes of FLEX Options and may also designate other qualified employees to assist the FLEX Official as the need arises. Further, a FLEX Official would have the regulatory responsibility for reviewing the conformity of FLEX trades to the terms and specifications contained in Rule 903G (Terms of FLEX Options), including posting FLEX Requests for Quotes for dissemination; determining the BBO; ensuring that FLEX contracts are executed in conformance with the priority principles set forth in Rule 904G (FLEX Trading Procedures and Principles); and calling upon Specialists to make FLEX Quotes in specific classes of FLEX Equity Options, per Rule 927NY(c), which sets forth the obligations of Specialists.[25] In this regard, the Exchange likewise proposes to modify Rule 904G(a)(i)–(ii) (FLEX Trading Procedures and Principles) to clarify the FLEX Officials, not FLEX Specialists, would handle Requests for Quotes from OTP Holders and OTP Firms. The Exchange notes that these responsibilities were previously handled by Specialists but are currently handled by FLEX Officials.[26] The Exchange also proposes to modify reference to "FLEX Post Official" in Rule 927NY to "FLEX Official," which would add clarity and transparency to Exchange rules.

Second, consistent with the foregoing changes, the Exchange proposes to modify Rule 904G(a)(ii) and (c)(i)–(iii) to more accurately reflect the handling of FLEX Quotes and requests for such quotes. When the Exchange introduced FLEX Options, the Exchange displayed FLEX Request for Quotes and FLEX Quotes at physical FLEX posts. However, as trading in FLEX Options gained popularity, it became apparent that liquidity for FLEX Options was more readily available at trading posts where the standard options in the underlying security traded rather than at a specific FLEX post. And, over time, Floor Participants would ask Floor Brokers to communicate the existence of trading interest in particular FLEX Options through various means to their customers and correspondents. Thus, the Exchange proposes to revise the rules to reflect that the FLEX Request for Quotes or the FLEX Quotes are "disseminated" (rather than displayed), which would add clarity and transparency to Exchange rules.[27] Similarly, because there are no longer specific physical FLEX post on the Trading Floor, the Exchange proposes to remove the FLEX modifier from Rule 904G(b)(i), such that the revised rule text refers only to a "post," which the Exchange believes would add clarity and consistency to Exchange rules. The Exchange also proposes to make a non-substantive change to Rule 904G(c)(ii) to replace a colon with a semi-colon. The Exchange believes these changes would add clarity, transparency and internal consistency to Exchange rules.

- *Obsolete Foreign Currencies.* The Exchange proposes to modify rule text relating to FLEX Options to remove obsolete references to foreign currencies that are no longer in circulation, which would add clarity and transparency to Exchange rules. Specifically, the Exchange proposes to remove references in the FLEX rules to Deutsche Marks and French Francs.[28]
- *Terms of FLEX Options.* The Exchange proposes to modify several aspects of Rule 903G (Terms of FLEX Options). First, the Exchange proposes to clarify that each FLEX Request for Quote and FLEX contract must contain the underlying security in the case of FLEX Equity Options or (as opposed to "and") the underlying index, in the case of FLEX Index Options.[29] The Exchange also proposes to make a non-substantive change to Rule 903G(c)(4) to clarify the reference to Rule 805 of the Options Clearing Corporation.[30] The Exchange believes these changes would add clarity, transparency and internal consistency to Exchange rules.
- *Financial Requirements for Specialist.* The Exchange also proposes to modify Rule 909G(c) to update the cross-reference regarding the financial requirements of Specialists to Rule 927NY(c)(10), and to remove the obsolete rule references to Rule 171 and Rule 950(h).[31]

Second, the Exchange proposes to modify Rule 903G(a)(2)(vii) to make clear that the minimum size of one contract for FLEX Options applies to both transactions (per current rule text) "and quotations" (per proposed rule text). This proposed change corresponds to the Commission's approval, in 2014, of the Exchange's proposal to adopt on a permanent basis its pilot program regarding minimum value sizes for opening transactions in new series of FLEX Options and FLEX Quotes.[32] The Exchange believes this change would add clarity and transparency to Exchange rules.

The Exchange is proposing to modify Rule 903G(c)(3) to address exercise settlement of FLEX Options that are cash-settled, as the current rule only addresses exercise settlement by physical delivery.[33] Specifically, the Exchange proposes to designate the current description of exercise settlement by physical delivery as paragraph (3)(i) and to add a description of cash-settlement in paragraph (3)(ii). Finally, the Exchange proposes paragraph (3)(iii) to state that exercise settlement of FLEX ByRDs would the same as non-FLEX ByRDs, pursuant to Rule 910ByRDs.[34]

The Exchange also proposes to modify Commentary .01 to Rule 903G, to provide that FLEX Options may be permitted in puts and calls that do not have identical terms, including, as proposed, "the same settlement style." Commentary .01 to Rule 903G is designed to prevent the trading of a FLEX Option that has the exact same terms (underlying security, exercise style, expiration date, exercise price and, as proposed, settlement style) as a Standard or (non-FLEX) Option. In other words, as long as just one term of the FLEX Option is different from an existing "regular" or "non-FLEX" option it may be traded as a FLEX Option.

2. *Statutory Basis*

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the "Act"),[35] in general, and furthers the objectives of Section 6(b)(5) of the Act,[36] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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[23] *See* NYSE Arca Rules 5.30(b)(7) and 5.38.

[24] *See id.*

[25] *See* proposed Rule 910G(b)(1)–(5).

[26] *See* proposed Rule 904G(a)(i)–(ii).

[27] *See* proposed Rule 904G(a)(ii) and (c)(i)–(iii).

[28] *See* proposed 900G(b)(12), 903G(b)(3), 904G(g). The Exchange also proposes to modify Rule 900G(b)(12) relating to the reference to "British Pound" to both remove errant brackets and pluralize "Pounds." *See* proposed 900G(b)(12), 904G(g).

[29] *See* proposed Rule 903G(a)(2)(i).

[30] *See* proposed 903G (c)(4).

[31] *See* Securities and Exchange Act Release No. 59454 (February 25, 2009), 74 FR 9461 (March 4, 2009) (SR–NYSEALTR–2009–17) (approving proposal to replace certain then-existing Alternext Rules, including Rules 171 and 950 regarding the financial requirements of Specialists, with Rule Section 900NY, including Rule 927NY (Specialists)).

[32] *See* Securities and Exchange Act Release No. 72536 (July 3, 2014) 79 FR 39425 (July 10, 2014) (SR–NYSEMKT–2014–21).

[33] Rule 903G(c)(3) currently provides that "[e]xercise settlement shall be by physical delivery of the underlying security."

[34] *See* proposed Rule 903G(c)(3)(i)–(iii).

The Exchange believes that the proposal to add FLEX ByRDs would remove impediments to and perfect the mechanism of a free and open market as FLEX ByRDs would enable market participants to negotiate terms that differ from standardized ByRDs, which would, in turn provide greater opportunities for investors to manage risk through the use of FLEX Options to the benefit of investors and the public interest.

The Exchange believes that the proposal to permit additional settlement types—Asian, Cliquet and VWAP—would remove impediments to and perfect the mechanism of a free and open market because the proposed rule change would provide OTP Holders with enhanced methods to manage risk by more finely tailoring a FLEX Option, within specified limits, to the underlying security or index through a variety of settlement calculations and styles. In addition, this proposal would promote just and equitable principles of trade and protect investors and the general public because the additional settlement styles for FLEX Options would provide investors with additional trading and hedging tools. Further, the Exchange notes that its proposal to offer Asian and Cliquet-style settlement for FLEX Index Options is consistent with the rules of another options exchange and therefore raise no novel issues for the Commission.[37]

The Exchange notes that permitting VWAP Settlement, which would be available for FLEX Equity Options and FLEX ByRDs, would remove impediments to and perfect the mechanism of a free and open market because the proposed rule change would provide market participants with a method to offset risk for a large position, regardless of whether the position in the underlying was established using a VWAP methodology.

The Exchange believes the proposed changes to FLEX Exercise Prices and Premiums would remove impediments to and perfect the mechanism of a free and open market as this change would provide greater flexibility in terms of describing an option contract tailored to the needs of the investor. In addition, the proposed changes would promote internal consistency in our own rules and would align our rules with that of another options exchange and therefore raise no novel issues for the Commission.[38]

Regarding the proposed settlement styles, the Exchange would use the same surveillance procedures currently utilized for the Exchange's other FLEX Options, including FLEX Index Options. The Exchange further represents that these surveillance procedures shall be adequate to monitor trading in options on these option products. For surveillance purposes, the Exchange would have complete access to information regarding trading activity in the pertinent underlying securities.

Finally, the remaining proposed changes to FLEX Options would remove impediments to and perfect the mechanism of a free and open market as the changes correct inaccuracies in rule text and update the rules to better reflect the Exchange's current practices with respect to FLEX Options, which have evolved over time. The Exchange believes the proposed changes would provide transparency and internal consistency within Exchange rules and operate to protect investors and the investing public by making the Exchange rules easier to navigate and comprehend.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors because it is designed to provide investors seeking to effect FLEX Option orders with the opportunity for different methods of settling option contracts at expiration. The proposed changes are also designed to update Exchange rules regarding FLEX Options, including by removing obsolete references, which should likewise improve the competitiveness of the Exchange by making it a more attractive venue for trading.

The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues who offer similar functionality. The Exchange also believes the proposed rule change promotes competition because it would enable the Exchange to provide market participants with FLEX Options transaction possibilities that are similar to that of other options exchanges. The Exchange believes the proposed rules encourage competition amongst market participants to provide tailored FLEX Options contracts.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or *up to 90 days* (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–48 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–48, and should be submitted on or before August 11, 2016.

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[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See supra* n. 10.

[38] *See supra* nn. 16, 18.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17201 Filed 7–20–16; 8:45 am]

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[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78346; File No. SR–BatsBZX–2016–34]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change to BZX Rule 14.11(i), Managed Fund Shares, To List and Trade Shares of the ProShares Crude Oil Strategy ETF, a Series of ProShares

July 15, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the "Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on July 1, 2016, Bats BZX Exchange, Inc. (the "Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to list and trade shares of the ProShares Crude Oil Strategy ETF (the "Fund"), a series of ProShares Trust (the "Trust"), under Rule 14.11(i) ("Managed Fund Shares"). The shares of the Fund are referred to herein as the "Shares."

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[4] The Fund will be an actively managed fund that seeks to provide long term capital appreciation, primarily through exposure to the West Texas Intermediate ("WTI") crude oil futures markets.

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on May 29, 2002. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Fund on Form N–1A ("Registration Statement") with the Commission.[5] The Commodity Futures Trading Commission ("CFTC") has recently adopted substantial amendments to CFTC Rule 4.5 relating to the permissible exemptions and conditions for reliance on exemptions from registration as a commodity pool operator. As a result of the instruments that will be held by the Fund, the Adviser has registered as a Commodity Pool Operator ("CPO") and is also a member of the National Futures Association ("NFA"). The Fund and a wholly-owned subsidiary of the Fund organized under the laws of the Cayman Islands (the "Subsidiary") will be subject to regulation by the CFTC and NFA and additional disclosure, reporting and recordkeeping rules imposed upon commodity pools. The Fund will generally obtain its exposure to WTI crude oil markets via investments in the Subsidiary. These investments are intended to provide the Fund with exposure to WTI crude oil markets in accordance with applicable rules and regulations. Henceforth, references to the investments of the Fund include investments of the Subsidiary, to which the Fund gains indirect exposure through its investment in the Subsidiary.

Description of the Shares and the Fund

ProShare Advisors LLC is the investment adviser ("Adviser") to the Fund and the Subsidiary. JPMorgan Chase Bank, National Association ("JP Morgan") is the administrator, custodian, fund account agent, index receipt agent and transfer agent for the Trust. SEI Investments Distribution Co. ("Distributor") serves as the distributor for the Trust.

Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[6] In

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Commission approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[5] *See* Registration Statement on Form N–1A for the Trust, filed with the Commission on May 3, 2016 (File Nos. 333–89822 and 811–21114). The descriptions of the Fund and the Shares contained herein are based, in part, on information contained in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) ("1940 Act") (the "Exemptive Order"). *See* Investment Company Act Release No. 30562 (June 18, 2013) (File No. 812–14041).

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940, as amended (the "Advisers Act"). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as

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addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a "fire wall" between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is currently affiliated with a broker-dealer and, in the future may be affiliated with other broker dealers. The Adviser has implemented and will maintain a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

ProShares Crude Oil Strategy ETF

According to the Registration Statement, the Fund is an actively managed fund that seeks to provide long term capital appreciation, primarily through exposure to the WTI crude oil futures markets, which include only those WTI crude oil contracts traded on the New York Mercantile Exchange and ICE Futures Europe ("WTI Crude Oil Futures"). The Fund's active strategy seeks to provide this exposure by rolling WTI Crude Oil Futures contracts (*e.g.,* selling a futures contract as it nears its expiration date and replacing it with a new futures contract that has a later expiration date). The Fund generally selecting between first, second and third month WTI Crude Oil Futures contracts based on an analysis of the liquidity and cost surrounding such positions.

The Fund generally will not invest directly in WTI Crude Oil Futures. The Fund expects to gain exposure to these investments by investing a portion of its assets in the Subsidiary.[7] The Subsidiary is advised by the Adviser. Unlike the Fund, the Subsidiary is not an investment company registered under the 1940 Act. The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to the WTI crude oil markets in accordance with applicable rules and regulations. The Subsidiary has the same investment objective as the Fund. The Fund will generally invest up to 25% of its total assets in the Subsidiary and, through such investment, generally remain fully exposed to WTI Crude Oil Futures, even during times of adverse market conditions. Such positions are generally collateralized by the Fund's positions in Cash Assets, as defined below.

In order to achieve its investment objective, the Fund will invest in: (i) WTI Crude Oil Futures; and (ii) Cash Assets (which are used to collateralize the WTI Crude Oil Futures), which will, under normal circumstances,[8] be held in cash or cash equivalents such as U.S. Treasury securities or other high credit quality short-term fixed-income or similar securities (including US agency securities, shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities). The Fund will use the Cash Assets to meet asset coverage tests resulting from the Subsidiary's derivative exposure on a day-to-day basis. As a whole, the Fund's investments are meant to achieve its investment objective within the limitations of the federal tax requirements applicable to regulated investment companies. The Fund does not invest in nor seek exposure to the current "spot" or cash price of physical crude oil. WTI Crude Oil Futures contracts typically perform very differently from, and commonly underperform, the spot price of WTI crude oil.

The Fund intends to qualify each year as a regulated investment company (a "RIC") under Subchapter M of the Internal Revenue Code of 1986, as amended.[9] The Fund will invest its assets (including via the Subsidiary), and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Investment Restrictions

While the Fund does not currently anticipate holding illiquid assets, it may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser[10] under the 1940 Act.[11] The Fund will monitor

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compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[7] The Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees ("Board") has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

[8] The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[9] 26 U.S.C. 851.

[10] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[11] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December

its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns (*i.e.* two times or three times the Fund's benchmark).

Net Asset Value

According to the Registration Statement, the net asset value ("NAV") of the Shares of the Fund will be calculated by dividing the value of the net assets of the Fund (*i.e.,* the value of its total assets less total liabilities) by the total number of Shares outstanding. Expenses and fees, including the management and administration fees, are accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund is generally determined at 2:30 p.m. Eastern Time each business day when the Exchange is open for trading. If the Exchange or market on which the Fund's investments are primarily traded closes early, the NAV may be calculated prior to its normal calculation time. Creation/redemption transaction order time cutoffs (as further described below) would also be accelerated.

U.S. Treasury and agency securities will generally be valued at their market price using market quotations or information provided by a pricing service. Certain short-term debt securities are valued on the basis of amortized cost. WTI Crude Oil Futures are generally valued at their settlement price as determined by the relevant exchange. Repurchase agreements, variable rate demand notes, overnight bank deposits, and overnight bank money market accounts are generally valued at cost. Bank money market accounts and time deposits with terms greater than a single day are fair valued per the procedures below. Money market funds would generally be valued at their current Net Asset Value per share, typically $1.00 per share.

When the Adviser determines that the price of a security or derivative is not readily available or deems the price unreliable, it may, in good faith, establish a fair value for that security or derivative in accordance with procedures established by and under the general supervision and responsibility of the Board. The use of a fair valuation method may be appropriate if, for example, market quotations do not accurately reflect fair value for an investment, a trading halt closes an exchange or market early, or other events result in an exchange or market delaying its normal close. The Adviser may consider applying appropriate valuation methodologies, which may include discounts of market value of similar freely traded securities, yields to maturity, or any other appropriate method. In determining the appropriate methodology, the Adviser may consider all relevant factors, including, among other things: Fundamental analytical data; the types of instruments affected; pricing history of the instrument; whether dealer quotations are available; liquidity of the market; news or other events; and other factors the Adviser deems relevant.

For more information regarding the valuation of Fund investments in calculating the Fund's NAV, *see* the Registration Statement.

The Shares

The Fund will issue and redeem Shares on a continuous basis at the NAV per Share only in large blocks of a specified number of Shares or multiples thereof ("Creation Units") in transactions with authorized participants who have entered into agreements with the Distributor. The Adviser currently anticipates that a Creation Unit will consist of 25,000 Shares, though this number may change from time to time, including prior to listing of the Shares. The exact number of Shares that will constitute a Creation Unit will be disclosed in the Registration Statement. Once created, Shares of the Fund may trade on the secondary market in amounts less than a Creation Unit.

Although the Adviser anticipates that purchases and redemptions for Creation Units will generally be executed on an all-cash basis, the consideration for purchase of Creation Units of the Fund may consist of an in-kind deposit of a designated portfolio of assets (including any portion of such assets for which cash may be substituted) (*i.e.,* the "Deposit Assets"), and the "Cash Component" computed as described below. Together, the Deposit Assets and the Cash Component constitute the "Fund Deposit," which represents the minimum initial and subsequent investment amount for a Creation Unit of the Fund. The specific terms surrounding the creation and redemption of shares are at the discretion of the Adviser.

The Deposit Assets and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond pro rata, to the extent practicable, to the assets held by the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the "Deposit Amount," which will be an amount equal to the market value of the Deposit Assets, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount. The Fund generally offers Creation Units partially or entirely for cash. The Adviser will make available through the National Securities Clearing Corporation ("NSCC") on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Asset and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the Fund.

The identity and number or par value of the Deposit Assets may change pursuant to changes in the composition of the Fund's portfolio as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Assets may also change in response to adjustments to the weighting or composition of the holdings of the Fund.

The Fund reserves the right to permit or require the substitution of a "cash in lieu" amount to be added to the Cash Component to replace any Deposit Asset that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company ("DTC") or the clearing process through the NSCC.[12]

31, 1970) (Statement Regarding "Restricted Securities"); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[12] The Adviser represents that, to the extent the Trust permits or requires a "cash in lieu" amount,

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such transactions will be effected in the same or equitable manner for all authorized participants.

Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor at a time specified by the Adviser. The Fund currently intends that such orders must be received in proper form no later than 2:00 p.m. Eastern Time on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form. The "Settlement Date" is generally the third business day after the transmittal date. On days when the Exchange or the futures markets close earlier than normal, the Fund may require orders to create or to redeem Creation Units to be placed earlier in the day.

Fund Deposits must be delivered through either the Continuous Net Settlement facility of the NSCC, the Federal Reserve System (for cash and government securities), through DTC (for corporate securities), or through a central depository account, such as with Euroclear or DTC, maintained by JP Morgan (a "Central Depository Account"), in any case at the discretion of the Adviser, by an authorized participant. Any portion of a Fund Deposit that may not be delivered through the NSCC, Federal Reserve System or DTC must be delivered through a Central Depository Account.

A standard creation transaction fee may be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of the Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. The Adviser will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of assets (including any portion of such assets for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day ("Fund Securities"). The redemption proceeds for a Creation Unit generally will consist of a specified amount of cash less a redemption transaction fee. The Fund generally will redeem Creation Units entirely for cash.

A standard redemption transaction fee may be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Redemption requests for Creation Units of the Fund must be submitted to the Distributor by or through an authorized participant by a time specified by the Adviser. The Fund currently intends that such requests must be received no later than 2:00 p.m. Eastern Time on any business day, in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by the Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Additional information regarding the Shares and the Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Fund (*www.ProShares.com*), as applicable.

Availability of Information

The Fund's Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Web sites will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, the closing market price or the midpoint of the bid/ask spread at the time of calculation of such NAV (the "Bid/Ask Price"),[13] daily trading volume, and a calculation of the premium and discount of the closing market price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing market price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours[14] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio WTI Crude Oil Futures and other assets (the "Disclosed Portfolio") held by the Fund and the Subsidiary that will form the basis for the Fund's calculation of NAV at the end of the business day.[15] The Disclosed Portfolio will include, as applicable: Ticker symbol or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio. The Web site and information will be publicly available at no charge.

In addition, for the Fund, an estimated value, defined in Rule 14.11(i)(3)(C) as the "Intraday Indicative Value," that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[16] In addition, the quotations of certain of the Fund's holdings may not be updated for purposes of calculating Intraday Indicative Value during U.S. trading hours where the market on which the underlying asset is traded settles prior to the end of the Exchange's Regular Trading Hours.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and provide an estimate of that value throughout the trading day.

Intraday price quotations on cash equivalents of the type held by the Fund are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or "live" with a paid fee. For WTI Crude Oil Futures, such intraday information is available directly from the applicable listing exchange. Intraday price information is also available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors. Pricing information related to money market fund shares will be available through issuer Web sites and publicly available quotation services such as Bloomberg, Markit and Thomson Reuters. Money market fund shares are not generally priced or quoted on an intraday basis.

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[13] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[14] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

[15] Under accounting procedures to be followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[16] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association ("CTA") or other data feeds.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be generally available daily in the print and online financial press. Quotation and last sale information for the Shares will be available on the facilities of the CTA.

Initial and Continued Listing

The Shares will be subject to Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, the Fund must be in compliance with Rule 10A–3 under the Act.[17] A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares the Fund. The Exchange will halt trading in the Shares under the conditions specified in Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the WTI Crude Oil Futures and other assets composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying futures via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[18] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine ("TRACE"). The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Exchange Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[19] and After Hours Trading Sessions[20] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in the Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[21] in general and Section 6(b)(5) of the Act[22] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

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[17] *See* 17 CFR 240.10A–3.

[18] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. At least 90% of the weight of the futures contracts held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[19] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[20] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[21] 15 U.S.C. 78f.

[22] 15 U.S.C. 78f(b)(5).

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in BZX Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. If the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser to the investment company shall erect a "fire wall" between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer, but is affiliated with a broker-dealer and has implemented a "fire wall" with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. At least 90% of the weight of the futures contracts held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange may obtain information regarding trading in the Shares and at least 90% of the weight of the underlying futures contracts held by the Fund via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[23] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's TRACE.

The Fund expects that it will generally seek to remain fully exposed to WTI Crude Oil Futures even during times of adverse market conditions. Under normal circumstances, the Fund's cash assets (which are used to collateralize the WTI Crude Oil Futures) will be held in: Cash or cash equivalents such as U.S. Treasury securities or other high credit quality short-term fixed-income or similar securities (including U.S. agency securities, shares of money market funds, bank deposits, bank money market accounts, certain variable rate-demand notes, and repurchase agreements collateralized by government securities).

Additionally, the Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment). The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will be available on the Fund's Web site including: (1) The prior business day's reported NAV, the Bid/Ask Price of the Fund, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of the Fund will be halted under the conditions specified in BZX Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to BZX Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday price quotations on U.S. government securities and repurchase agreements of the type held by the Fund are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or "live" with a paid fee. Major broker-dealer firms will also provide intraday quotes on swaps of the type held by the Fund. For WTI Crude Oil Futures, such intraday information is available directly from the applicable listing exchange. Intraday price information is also available through subscription services, such as Bloomberg and Thomson Reuters, which can be accessed by authorized participants and other investors. Pricing information related to money market fund shares will be available through issuer Web sites and publicly available quotation services such as Bloomberg, Markit and Thomson Reuters. Money market fund shares are not generally priced or quoted on an intraday basis.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of additional types of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement as well as trade information for certain fixed income instruments as reported to FINRA's TRACE. At least 90% of the weight of the futures contracts held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

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[23] *See* note 18, *supra.*

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of additional actively-managed exchange-traded products that will enhance competition among both market participants and listing venues, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove such proposed rule change; or (b) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–34 and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17199 Filed 7–20–16; 8:45 am]

BILLING CODE 8011–01–P

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[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78342; File No. SR–ISEMercury-2016–13]

Self-Regulatory Organizations; ISE Mercury, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Price Improvement Mechanism Pilot Program

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 14, 2016, ISE Mercury, LLC (the "Exchange" or "ISE Mercury") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend two pilot programs related to its Price Improvement Mechanism ("PIM"). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM (collectively, the "PIM Pilot Programs" or "Pilot

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Programs"). The current Pilot Period provided in paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2016.[3] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the Price Improvement Mechanism. Paragraph .05 concerns the termination of the exposure period by unrelated orders. The Exchange has continually submitted certain data in support of extending the current Pilot Programs. The Exchange proposes to extend these Pilot Programs in their present form, through January 18, 2017, to give the Exchange and the Commission additional time to evaluate the effects of these Pilot Programs before the Exchange requests permanent approval of the rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the Pilot Programs are consistent with the Act because they provide opportunity for price improvement for all orders executed in the Exchange's Price Improvement Mechanism. The proposed extension would allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption to the pilot. Further, the Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the Pilot Programs for an additional six months. The Exchange further believes it is appropriate to extend the Pilot Programs to provide the Exchange and Commission more data upon which to evaluate the rules. With this data, the Commission can evaluate whether the new data shows there is meaningful competition for all size orders within the PIM, whether there is significant price improvement for all orders executed through the PIM, and whether there is an active and liquid market functioning on the Exchange outside of the PIM.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the PIM. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period because the Pilot Programs are set to expire on July 18, 2016. The Exchange noted that such waiver will allow the Pilot Programs to continue uninterrupted.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the Pilot Programs. For this reason, the Commission designates the proposed rule change to be operative on July 18, 2016.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISEMercury–2016–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISEMercury–2016–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISEMercury–2016–13, and should be submitted on or before August 11, 2016.

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[3] *See* Securities Exchange Act Release No. 76998 (January 29, 2016), 81 FR 6066 (February 4, 2016) (Order Granting the Application of ISE Mercury, LLC for Registration as a National Securities Exchange).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17195 Filed 7–20–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78343; File No. SR–ISEGemini–2016–07]

Self-Regulatory Organizations; ISE Gemini, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Price Improvement Mechanism Pilot Program

July 15, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 14, 2016, ISE Gemini, LLC (the "Exchange" or "ISE Gemini") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend two pilot programs related to its Price Improvement Mechanism ("PIM"). The text of the proposed rule change is available on the Exchange's Web site *www.ise.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently has two pilot programs related to its PIM (collectively, the "PIM Pilot Programs" or "Pilot Programs"). The current Pilot Period provided in paragraphs .03 and .05 of the Supplementary Material to Rule 723 is set to expire on July 18, 2016.[3] Paragraph .03 provides that there is no minimum size requirement for orders to be eligible for the Price Improvement Mechanism. Paragraph .05 concerns the termination of the exposure period by unrelated orders. The Exchange has continually submitted certain data in support of extending the current Pilot Programs. The Exchange proposes to extend these Pilot Programs in their present form, through January 18, 2017, to give the Exchange and the Commission additional time to evaluate the effects of these Pilot Programs before the Exchange requests permanent approval of the rules.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[4] Specifically, the proposed rule change is consistent with Section 6(b)(5) of the Act,[5] because it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the Pilot Programs are consistent with the Act because they provide opportunity for price improvement for all orders executed in the Exchange's Price Improvement Mechanism. The proposed extension would allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption to the pilot. Further, the Exchange believes that the data demonstrates that there is sufficient investor interest and demand to extend the Pilot Programs for an additional six months. The Exchange further believes it is appropriate to extend the Pilot Programs to provide the Exchange and Commission more data upon which to evaluate the rules. With this data, the Commission can evaluate whether the new data shows there is meaningful competition for all size orders within the PIM, whether there is significant price improvement for all orders executed through the PIM, and whether there is an active and liquid market functioning on the Exchange outside of the PIM.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes that, by extending the expiration of the Pilot Programs, the proposed rule change will allow for further analysis of the PIM. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75481 (July 17, 2015), 80 FR 43826 (July 23, 2015) (SR–ISE Gemini–2015–13).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[6]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[7] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[8] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay period because the Pilot Programs are set to expire on July 18, 2016. The Exchange noted that such waiver will allow the Pilot Programs to continue uninterrupted.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the Pilot Programs to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the Pilot Programs. For this reason, the Commission designates the proposed rule change to be operative on July 18, 2016.[9]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISEGemini–2016–07 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISEGemini–2016–07. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISEGemini–2016–07, and should be submitted on or before August 11, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–17196 Filed 7–20–16; 8:45 am]

BILLING CODE 8011–01–P

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[6] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14754 and #14755]

West Virginia Disaster Number WV–00044

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of West Virginia (FEMA–4273–DR), dated 07/06/2016.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 06/22/2016 through 06/29/2016.

Effective Date: 07/13/2016.

Physical Loan Application Deadline Date: 09/06/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 04/06/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of West Virginia, dated 07/06/2016, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Braxton, Gilmer, Lewis, Lincoln, Randolph, Upshur, Wayne.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Lisa Lopez-Suarez,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2016–17320 Filed 7–20–16; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14767]

California Disaster #CA–00249 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of California, dated 07/13/2016.

Incident: Moraga Sinkhole.

Incident Period: 03/13/2016 and continuing.

DATES: *Effective Date:* 07/13/2016.

EIDL Loan Application Deadline Date: 04/13/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Contra Costa.

Contiguous Counties: California:

Alameda, Sacramento, San Joaquin, Solano.

The Interest Rates are:

	Percent
Businesses And Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for economic injury is 147670.

The State which received an EIDL Declaration # is California.

(Catalog of Federal Domestic Assistance Number 59008)

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–17321 Filed 7–20–16; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21068]

Silverado Stages, Inc.—Acquisition of Control—Michelangelo Leasing, Inc. and Ryan's Express Transportation Services, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On June 21, 2016, Silverado Stages, Inc. (Silverado) filed an application under 49 U.S.C. 14303 seeking approval for its acquisition and control of the stock of Michelangelo Leasing, Inc. (Michelangelo) and Ryan's Express Transportation Services, Inc. (Ryan), a corporation wholly owned and controlled by Michelangelo. In its application, Silverado also requests retroactive approval of its acquisition of control of five subsidiaries and retroactive approval of Michelangelo's acquisition of control of Ryan. The Board is tentatively approving and authorizing the transaction before it, but is not granting retroactive approval of Silverado or Michelangelo's previous acquisitions. If no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8.

DATES: Comments must be filed by September 6, 2016. Silverado may file a reply by September 19, 2016. If no opposing comments are filed by September 6, 2016, this notice shall be effective on September 7, 2016.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21068 to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicant's representative: David H. Coburn, Steptoe & Johnson, LLP, 1330 Connecticut Ave. NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet (202) 245–0368. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Silverado, a Wyoming corporation, is a federally regulated interstate motor carrier of passengers (MC–230881) providing charter and tour bus transportation services to the public throughout California from its terminals in San Luis Obispo, Sacramento, Santa Ana, Pomona, and Santa Barbara. Silverado states that it also provides intrastate airport and shuttle services, and charter and tour services in the Las Vegas, Nev., Los Angeles, Cal., and Cheyenne, Wyo. areas either directly or through its subsidiaries. According to Silverado, it owns five motor carrier subsidiaries, three of which conduct operations: Silverado Stages NV LLC (MC–936678) (providing interstate and intrastate charter and tour services in the Las Vegas area and a fixed route between Las Vegas and Reno), Silverado Stages SC LLC (MC–937520) (providing interstate charter and tour services in California and intracity shuttle service in the Los Angeles area), Silverado Stages WY LLC (MC–937467) (providing charter and tour bus services in the Cheyenne area), Silverado Stages NC LLC (Silverado NC) (MC–937511), and Silverado Stages CC LLC (Silverado CC) (MC–938086).[1] Silverado states that the subsidiaries were established in March and April 2015 and procured federal operating authority in November 2015.[2] Silverado also states that it is owned and controlled by individual stockholders.

Silverado further states that Michelangelo, a privately held Arizona corporation, is a federally regulated motor carrier of passengers (MC–419004) that provides charter, tour, and local shuttle transportation. Silverado states that Eugene Bronson, the president and CEO of Michelangelo and Ryan, owns 100% of Michelangelo's stock. According to Silverado, Michelangelo provides its services in the Phoenix, Ariz., Las Vegas, Nev., and Los Angeles, Cal., markets utilizing 145 motor coaches, 11 mini-buses, 3 vans, and 4 limousines. Michelangelo also owns and controls Ryan, a federally regulated motor carrier of passengers (MC–348310).[3] Silverado states that

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[1] Silverado states that Silverado NC and Silverado CC are non-operating entities. Both are incorporated in California and headquartered in San Luis Obispo.

[2] Silverado states that at the time it obtained control of the subsidiaries it was not aware of the requirements under 49 U.S.C. 14303 to obtain Board approval of its acquisition of control of more than one motor carrier of passengers. Silverado now seeks retroactive approval of the acquisition of its five subsidiaries. The Board generally does not make retroactive grants of authority. *See Rose Chaffeured Transp., Ltd.—Acquis. of Control—MY Bus division of Cherry Consulting of the Carolinas, Inc.*, MCF 21066 (STB served May 11, 2016); *V & S Ry.—Acquis. & Operation Exemption—Colo. Dept. of Transp.*, FD 35664 (STB served Nov. 13, 2012); *Coach USA, Inc., and Yellow Cab Service Corp.—Control—Ross Tours, Inc.*, MCF 20945, *et al.* (STB served May 14, 1999). The Board will tentatively approve and authorize Silverado's acquisitions of its five subsidiaries as part of the overall transaction at issue here, but only as of the date of service of this decision, not retroactively.

[3] Silverado states that Michelangelo acquired control of Ryan in 2015 and that, at the time, Michelangelo was not aware of the requirements under 49 U.S.C. 14303 to obtain Board approval of its acquisition of control of another motor carrier of passengers. Michelangelo now seeks retroactive

Continued

Ryan also operates charter services in the Phoenix, Las Vegas, and Los Angeles markets utilizing 52 motor coaches and 4 minibuses. Silverado states that Michelangelo is also the owner and managing member of White Tie International LLC, a non-regulated motor carrier that provides intrastate sedan and limousine charters and tours in the Sedona, Ariz. area.

Silverado seeks Board authority for its acquisition and control of Michelangelo and Ryan through a stock purchase agreement. Specifically, Silverado states that it would acquire full control of Michelangelo's operations, equipment, and operating authority, as well as the operations, equipment, and operating authority of Ryan, and that these operations would be merged under the Silverado brand and management. Silverado states that Bronson would receive cash and a 14.45% ownership of stock.[4] Silverado explains that it plans to restructure approximately $38 million in current debt of Silverado and Michelangelo.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Silverado submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that the aggregate gross operating revenues of Silverado and Michelangelo exceeded $2 million for the preceding 12-month period, *see* 49 U.S.C. 14303(g).[5]

Silverado addresses the adequacy of transportation to the public by stating that the proposed transaction would not result in significant changes to the nature or scope of services that are currently conducted by Silverado, Michelangelo, or Ryan. Silverado states that the transaction would allow for the continuation of operations while eliminating duplicate administrative and managerial functions. Silverado anticipates improved public service through the debt restructure that will allow Silverado to access lower interest costs so that it can more readily replace aging vehicles and purchase newer vehicles on more favorable terms. With respect to fixed charges, Silverado asserts the debt restructure will reduce fixed charges by improving its financial position and reducing future interest costs associated with vehicle and other financing. Regarding the effect of the transaction on employees, Silverado states that the proposed transaction will consolidate some headquarter and administrative functions, but expects that its improved financial returns will strengthen its ability to retain employees and expand future employment opportunities.

Silverado further claims that competition will not be materially adversely impacted by the proposed transaction. Citing agency precedent finding low entry barriers in the interstate bus industry, Silverado states that the areas of Los Angeles and Las Vegas, where its services overlap with Michelangelo and Ryan, have robust carrier competition. Specifically, Silverado asserts that competing bus carriers in the Los Angeles area that operate charter and/or tour services include Tourcoach, Gold Coast Tours, Pacific Coachways, and Transportation Charter Services, among other carriers. Similarly, Silverado states that Las Vegas also has a large number of carriers providing charter and/or tour services. Specifically, according to Silverado, competing bus carriers in the Las Vegas area include Arrow Stage Lines, Lewis Brothers, Grand Canyon Coaches, Alan Waxler Group Charter services, and other operators. The operations of Michelangelo and Ryan also overlap in these markets as well as in Phoenix.

The Board finds that the acquisition described in the application (including Silverado's acquisition of the five subsidiaries, Michelangelo's acquisition of Ryan, and Silverado's acquisition of Michelangelo and Ryan), is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

It is ordered:

1. The proposed transaction is approved and authorized as described above, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective September 7, 2016, unless opposing comments are filed by September 6, 2016.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: July 18, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Tia Delano,

Clearance Clerk.

[FR Doc. 2016–17228 Filed 7–20–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

60-Day Notice of Intent To Seek Extension of Approval: Class I Railroad Annual Report

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As required by the Paperwork Reduction Act of 1995, (PRA), the Surface Transportation Board (STB or Board) gives notice of its intent to seek approval from the Office of Management and Budget (OMB) for an extension of the collection of Class I Railroad Annual Reports, described below.

DATES: Comments on this information collection should be submitted by September 19, 2016.

ADDRESSES: Direct all comments to Chris Oehrle, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to *PRA@stb.dot.gov.* When submitting comments, please refer to "Paperwork Reduction Act Comments, Class I Railroad Annual Report." For further information

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approval of its acquisition of control Ryan. The Board generally does not grant retroactive authority. *See supra* n.2. The Board will tentatively approve and authorize Michelangelo's acquisition of control of Ryan as part of the overall transaction at issue here, but only as of the date of service of this decision, not retroactively.

[4] Silverado's application included a chart with stockholders' names, shares, and percentage of ownership before and after the proposed transaction.

[5] Applicants with gross operating revenues exceeding $2 million are required to meet the requirements of 49 CFR 1182.

regarding this collection, contact Pedro Ramirez at (202) 245–0333 or at *pedro.ramirez@stb.dot.gov.* [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Class I Railroad Annual Report.

OMB Control Number: 2140–0009.

Form Number: R1.

Type of Review: Extension without change.

Respondents: Class I railroads.

Number of Respondents: Seven.

Estimated Time per Response: No more than 800 hours. This estimate includes time spent reviewing instructions; searching existing data sources; gathering and maintaining the data needed; completing and reviewing the collection of information; and converting the data from the carrier's individual accounting system to the Board's Uniform System of Accounts, which ensures that the information will be presented in a consistent format across all reporting railroads. *See* 49 U.S.C. 11141–43, 11161–64; 49 CFR 1200–1201.

Frequency of Response: Annual.

Total Annual Hour Burden: No more than 5,600 hours annually.

Total Annual "Non-Hour Burden" Cost: No "non-hour cost" burdens associated with this collection have been identified. The information is submitted electronically.

Needs and Uses: Annual reports are required to be filed by Class I railroads under 49 U.S.C. 11145. The reports show operating expenses and operating statistics of the carriers. Operating expenses include costs for right-of-way and structures, equipment, train and yard operations, and general and administrative expenses. Operating statistics include such items as car-miles, revenue-ton-miles, and gross ton-miles. The reports are used by the Board, other Federal agencies, and industry groups to monitor and assess railroad industry growth, financial stability, traffic, and operations, and to identify industry changes that may affect national transportation policy. Information from this report is also entered into the Board's Uniform Rail Costing System (URCS), which is a cost measurement methodology. URCS, which was developed by the Board pursuant to 49 U.S.C. 11161, is used as a tool in rail rate proceedings (in accordance with 49 U.S.C. 10707(d)) to calculate the variable costs associated with providing a particular service. The Board also uses this information to more effectively carry out other regulatory responsibilities, including: acting on railroad requests for authority to engage in Board-regulated financial transactions such as mergers, acquisitions of control, and consolidations, *see* 49 U.S.C. 11323–24; analyzing the information that the Board obtains through the annual railroad industry waybill sample, *see* 49 CFR 1244; measuring off-branch costs in railroad abandonment proceedings, in accordance with 49 CFR 1152.32(n); developing the "rail cost adjustment factors," in accordance with 49 U.S.C. 10708; and conducting investigations and rulemakings.

Under the PRA, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Under 44 U.S.C. 3506(c)(2)(A), federal agencies are required to provide, prior to an agency's submitting a collection to OMB for approval, a 60-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information.

Information from certain schedules contained in these reports is compiled and published on the Board's Web site, *http://www.stb.dot.gov.* Information in these reports is not available from any other source.

Dated: July 18, 2016.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–17235 Filed 7–20–16; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1011 (Sub-No. 3X)]

Northern Lines Railway Company, LLC—Discontinuance of Service Exemption—in Stearns and Benton Counties, Minn.

On July 1, 2016, Northern Lines Railway, LLC (NLR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to discontinue rail service over approximately three miles of rail line (the Subject Segments) in East St. Cloud, Stearns and Benton Counties, Minn.

NLR is not the owner of the Subject Segments. The Subject Segments are owned by BNSF Railway Company (BNSF).[1] The Subject Segments connect to BNSF main lines between milepost 73 and milepost 75 and include: (a) All tracks accessed by Main 1 from Tracks 9967 and 9966; (b) Track 0132 along with Track 0146 and Track 0146's connecting industries within the wye complex at main line milepost 74; and (c) Track 0162, also known as Transfer 2.

NLR states that BNSF has advised NLR that some of the Subject Segments, based on information on BNSF's possession, do contain federally granted rights-of-way. Any documentation in NLR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be granted by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 19, 2016.

Because this is a discontinuance proceeding and not an abandonment proceeding, trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during abandonment, this discontinuance does not require an environmental review.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) to subsidize continued rail service will be due no later than October 31, 2016, or

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[1] NLR was granted authority to lease and operate the Subject Segments in *Northern Lines Ry., LLC—Lease and Operation Exemption—Burlington Northern and Santa Fe Ry.,* FD 34627 (STB served Jan. 6, 2005) (as modified by the decision in the same docket served June 3, 2005).

10 days after service of a decision granting the petition for exemption, whichever occurs sooner. Each offer must be accompanied by a $1,600 filing fee. *See* 49 CFR 1002.2(f)(25).

All filings in response to this notice must refer to Docket No. AB 1011 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001; and (2) Rose-Michele Nardi, Transport Counsel, PC, 1701 Pennsylvania Ave. NW., Suite 300, Washington, DC 20006. Replies to this petition are due on or before August 10, 2016.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR pt. 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis (OEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: July 18, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Brendetta S. Jones,

Clearance Clerk.

[FR Doc. 2016–17368 Filed 7–20–16; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Results of the 2015/2016 Annual GSP Review

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice announces the results of the 2015/2016 Annual GSP Review with respect to: Products considered for addition to the list of eligible products for GSP; products considered for removal from the list of eligible products for certain beneficiary countries; decisions related to competitive need limitations (CNLs), including petitions for waivers of CNLs; and requests for redesignations of products previously excluded from GSP eligibility for certain countries.

FOR FURTHER INFORMATION CONTACT: Erland Herfindahl, Deputy Assistant U.S. Trade Representative for GSP, Office of the United States Trade Representative. The telephone number is (202) 395–6364, the fax number is (202) 395–9674, and the email address is *Erland_Herfindahl@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: The GSP program provides for the duty-free treatment of designated articles when imported from beneficiary developing countries. The GSP program is authorized by Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*), as amended, and is implemented in accordance with Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations.

Results of the 2015/2016 Annual GSP Review

In the 2015/2016 Annual GSP Review, the TPSC reviewed: (1) Petitions to add 30 products to the list of those eligible for duty-free treatment under GSP; (2) petitions to remove GSP eligibility of five products for certain GSP beneficiary countries; (3) four petitions to waive CNLs for products from certain beneficiary countries; (4) products eligible for *de minimis* waivers of CNLs; (5) requests for redesignation of products previously excluded from GSP eligibility for certain beneficiary countries; and (6) country practice petitions previously submitted as part of the 2015/2016 Annual Review and earlier reviews.

In Presidential Proclamation 9466 of June 30, 2016 the President implemented his decisions regarding GSP product eligibility issues arising out of the 2015/2016 Annual GSP Review, including CNL waivers and product redesignations. This notice provides further information on the results of the 2015/2016 Annual GSP Review, including disposition of country practice petitions. These results, comprising seven lists, are available for public viewing at *http://www.regulations.gov* in docket USTR–2015–0013, under "Supporting and Related Materials" and at *https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-20152016.*

Specific Results

The Administration added 27 travel and luggage goods products to the list of products eligible for duty-free treatment for least developed beneficiary developing countries (LDBDCs) and African Growth and Opportunity Act (AGOA) countries and has decided to defer action on a decision for non-LDBDCs. The Administration denied the petition to make certain effervescent wine (HTS 2204.21.20) eligible for duty-free treatment under GSP. The Administration has decided to defer a decision on final disposition of petitions to add essential oils of lemon (HTS 3301.13.00) and high-carbon ferromanganese (HTS 7202.11.50) to the list of products eligible for duty-free treatment under GSP for all GSP beneficiary countries. See List I (Decision on Petition to Add a Product to the List of Eligible Products for GSP).

The President removed polyethylene terephthalate (PET) resin (HTS 3907.60.00) and certain fluorescent brightening agents (HTS 3204.20.10 and HTS 3204.20.80) from India from GSP eligibility based on petitions from interested parties. The Administration denied the petitions to remove certain fluorescent brightening agents (HTS 3204.20.10 and HTS 3204.20.80) from Indonesia and PET film (HTS 3920.62.00 and 3921.90.40) from Brazil. See List II (Decisions on Petitions to Remove a Product from Certain Beneficiary Countries from GSP).

Articles that exceeded the CNLs in 2015 and that, effective July 1, 2016, are excluded from GSP eligibility when imported from a specific beneficiary country are described in List III (Products Newly Subject to Exclusion by Competitive Need Limitation).

The President granted petitions for waivers of CNLs for the following products: (1) Certain pitted dates (HTS 0804.10.60) from Tunisia; (2) certain inactive yeasts (HTS 2102.20.60) from Brazil; and (3) certain nonalcoholic beverages (HTS 2202.90.90) from Thailand. See List IV (Products Receiving a Waiver of the Competitive Need Limitation). The President denied the petition for a waiver of CNLs for certain motor vehicle parts and accessories (HTS 8707.50.95) from India.

The President granted *de minimis* waivers to 111 articles that exceeded the 50-percent import-share CNL but for which the aggregate value of all U.S. imports of that article was below the 2015 *de minimis* level of $22.5 million. See List V (Decisions on Products Eligible for *De Minimis* Waivers). The articles for which *de minimis* waivers were granted will continue to be eligible for duty-free treatment under GSP when imported from the associated countries.

No products previously excluded from GSP eligibility for certain countries were redesignated as eligible for GSP as a result of the 2015/2016 Annual Review.

Country Practice Petitions

The status of country practice petitions considered in the 2015/2016 GSP Annual Review is described in List VI (Active GSP Country Practice Reviews). This list includes petitions accepted as part of annual reviews from previous years.

Erland Herfindahl,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences and Chair of the GSP Subcommittee of the Trade Policy Staff Committee, Office of the U.S. Trade Representative.

[FR Doc. 2016–17202 Filed 7–20–16; 8:45 am]

BILLING CODE 3290–F6–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Fourth Meeting Special Committee 235, Non-Rechargeable Lithium Battery and Batteries

AGENCY: Federal Aviation Administration (FAA), U.S. Department of Transportation (DOT).

ACTION: Fourth Meeting Special Committee 235, non-rechargeable lithium battery and batteries.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Fourth Meeting Special Committee 235, Non-Rechargeable Lithium Battery and Batteries.

DATES: The meeting will be held August 16–17, 2016, 9:00 a.m. to 5:00 p.m. Tuesday, 9:00 a.m. to 4:00 p.m. Wednesday.

ADDRESSES: The meeting will be held at: RTCA, Inc., 1150 18th Street NW., Suite 450, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or (202) 330–0680 or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Fourth Meeting Special Committee 235, Non-Rechargeable Lithium Battery and Batteries. The agenda will include the following:

Tuesday, August 16, 2016—8:30 a.m.–5:00 p.m.

1. Welcome and Administrative Remarks
2. Introductions
3. Agenda Review
4. Meeting #3 Summary Review and Approval
5. Action Item Review
6. Status Report of Working-Group Leaders
    - WG–1—New DO–227A MOPS Template and Section 1
    - WG–2—Cell and Battery Requirements
7. Review Draft DO–227A Comments
8. Member company input on Thermal Runaway Test
9. FAA Tech Center Testing Update
10. Review of program schedule
11. Action Item Review
12. Any other Business
13. Date and Place of Next Meeting
14. Adjourn

Wednesday, August 17, 2016—8:30 a.m.–4:00 p.m.

Continuation of Plenary or Working Group Sessions

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 15, 2016.

June Green,

Procurement Services Division, ANG–A1, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2016–17309 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Operations Specifications, Part 129 Application

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The FAA assesses the information collected and issues operations specifications to foreign air carriers. These operations specifications assure the foreign air carrier's ability to navigate and communicate safely within the U.S. National Airspace System.

DATES: Written comments should be submitted by August 22, 2016.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronda Thompson at (202) 267–1416, or by email at: *Ronda.Thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0749.

Title: Operations Specifications, Part 129 Application.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on May 3, 2016 (81 FR 26610). There were no comments. The final rule published in 2013, clarified and standardized the rules for applications by foreign air carriers and foreign persons for operations specifications issued under 14 CFR part 129 and established standards for amendment, suspension and termination of those operations specifications. The final rule also applied to foreign air carriers and foreign persons operating U.S.-registered aircraft in common carriage solely outside the United States. This action was necessary to update the process for issuing operations specifications, and it established a regulatory basis for current practices, such as amending, terminating, and suspending operations specifications.

Respondents: Approximately 25 new applicants annually.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 3 hours.

Estimated Total Annual Burden: 75 hours.

Issued in Washington, DC, on July 13, 2016.

Ronda Thompson,

FAA Information Collection Clearance Officer, Performance, Policy & Records Management Branch, ASP–110.

[FR Doc. 2016–17300 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Sunshine Act Meetings; Unified Carrier Registration Plan Board of Directors

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Unified Carrier Registration Plan Board of Directors Meeting.

TIME AND DATE: The meeting will be held on August 11, 2016, from 12:00 Noon to 3:00 p.m., Eastern Daylight Time.

PLACE: This meeting will be open to the public via conference call. Any interested person may call 1–877–422–1931, passcode 2855443940, to listen and participate in this meeting.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Board of Directors (the Board) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement and to that end, may consider matters properly before the Board.

FOR FURTHER INFORMATION CONTACT: Mr. Avelino Gutierrez, Chair, Unified Carrier Registration Board of Directors at (505) 827–4565.

Issued on: July 14, 2016.

Larry W. Minor,

Associate Administrator, Office of Policy, Federal Motor Carrier Safety Administration.

[FR Doc. 2016–17355 Filed 7–19–16; 11:15 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0005; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 1995 Lamborghini Diablo SE30 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 1994 and 1995 Lamborghini Diablo SE30 passenger cars (PC) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the MY 1994 and 1995 Lamborghini Diablo SE30 PC) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 22, 2016.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies LLC (JK) of Baltimore, Maryland (Registered Importer R–90–006) has petitioned NHTSA to decide whether nonconforming MY 1994 and 1995 Lamborghini Diablo SE30 PCs are eligible for importation into the United States. The vehicles which JK believes are substantially similar are MY 1994 and 1995 Lamborghini Diablo SE30 PCs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 1994 and 1995 Lamborghini Diablo SE30 PCs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified MY 1994 and 1995 Lamborghini Diablo SE30 PCs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non U.S.-certified MY 1994 and 1995 Lamborghini Diablo SE30 PCs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic and Electric Brake Systems,* 106 *Brake Hoses,* 109 *New pneumatic and certain specialty tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 202 *Head Restraints,* 203 *Impact protection for the driver from the steering control system,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 Door *Locks and door retention components,* 207 *Seating Systems,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Replacement of the original instrument cluster with the U.S. model component and reprogramming the associated software as described in the petition.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the front and rear side marker lamps, headlamps, taillamps and stop lamps with U.S.-conforming components.

Standard No. 110 *Tire Selection and Rims:* Installation of the required tire information placard.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the face of the passenger side rearview mirror or replacement of the mirror with a U.S. model mirror.

114 *Theft protection:* A U.S. model center console control system will be added to activate the key warning and belt warning systems.

118 *Power-Operated Window, Partition, and Roof panel System:* A U. S. model center console control system will be added to activate the key warning and belt warning systems.

Standard No. 208 *Occupant Crash Protection:* Replacement of passive restraint system, electrical wiring harness, passenger's side seat belt, seatbelt tracks and electronic control unit (ECU) with U.S. model components as described in the petition.

Standard No. 209 *Seat Belt Assemblies:* Replacement of the passenger seat belt assembly with U.S. model components.

Standard No. 301 *Fuel System Integrity:* Replacement of fuel system components with U.S. model components as necessary to meet all applicable requirements of the standards.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–17190 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0055; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2008–2011 Ferrari 599 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2008–2011 Ferrari 599 passenger cars (PC) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2008–2011 Ferrari 599 PC) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is August 22, 2016.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading below.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

How to Read Comments submitted to the Docket: You may read the comments received by Docket Management at the address and times given above. You may also view the documents from the Internet at *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. The docket ID number and title of this notice are shown at the heading of this document notice. Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically search the Docket for new material.

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies (JK), Inc. of Baltimore, MD (Registered Importer R–90–006) has petitioned NHTSA to decide whether nonconforming 2008–2011 Ferrari 599 PC's are eligible for importation into the United States. The vehicles which JK believes are substantially similar are MY 2008–2011 Ferrari 599 PC's sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2008–2011 Ferrari 599 PC's to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

JK submitted information with its petition intended to demonstrate that non-U.S. certified MY 2008–2011 Ferrari 599 PC's, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards. Specifically, the petitioner claims that the non U.S.-certified MY 2008–2011 Ferrari 599 PC's, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect,* 103 *Windshield Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 106 *Brake Hoses,* 109 *New pneumatic and certain specialty tires,* 113 *Hood Latch System,* 116 *Motor Vehicle Brake Fluids,* 124 *Accelerator Control Systems,* 126 *Electronic Stability Control Systems,* 135 *Light vehicle brake systems,* 201 *Occupant Protection in Interior Impact,* 202a *Head Restraints,* 203 *Impact protection for the driver from the steering control system,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Mounting,* 213 *Child restraint systems,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

The petitioner also contends that the subject non-U.S certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* Replacement of the instrument cluster with U.S. model components and reprogramming as described in the petition and its attachments.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* Replacement of the front and rear side marker lamps, headlamps and tail lamps with U.S.-conforming components and reprogramming the associated ECU software as described in the petition and its attachments.

Standard No. 110 *Tire Selection and Rims:* Installation of the required tire information placard.

Standard No. 111 *Rearview Mirrors:* Inscription of the required warning statement on the face of the passenger side rearview mirror or replacement of the mirror with the U.S. model mirror.

Standard No. 114 *Theft Protection:* Reprogramming the body and ECU programs to activate the key warning and seat belt warning systems as described in the petition and its attachments.

Standard No. 118 *Power-Operated Window, Partition, and Roof panel System:* Reprogramming of the vehicle ECU, as described in the petition and its attachments to meet the requirements of the standard.

Standard No. 138 *Tire Pressure Monitoring Systems:* Reprogramming of the vehicle ECUs and replacement or addition of TPMS components with U.S.-model components as necessary to meet the requirements of the standard as described in the petition and its attachments.

Standard No. 207 *Seating Systems:* Replacement of all seats with U.S.-model seats if necessary to meet the requirements of the standard and FMVSS No. 208, as described in the petition and its attachments.

Standard No. 208 *Occupant Crash Protection:* Replacement of any seat belts, airbags, sensors, control units (ECU), wiring harnesses, knee bolsters, braces and software that are not identical to the U.S. model components with U.S. model components.

After installation of any new components, verification of system compliance will be completed as stated in the petition and its attachments.

Standard No. 209 *Seat Belt Assemblies:* Replacement of the passenger seat belt assembly with U.S. model components as necessary to meet the requirements of the standard.

Standard No. 225 *Child Restraint Anchorage Systems:* Replacement of or addition of anchorage components with U.S. model components as necessary to meet the requirements of the standard.

Standard No. 301 *Fuel System Integrity:* The fuel system will need to be modified as described in the petition and its attachments as necessary to meet the requirements of the standard.

Standard No. 401 *Interior Trunk Release:* A trunk release mechanism must be installed to meet the requirements of the standard.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–17191 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0024; Notice 1]

Spartan Motors USA, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Spartan Motors USA, Inc. (Spartan), has determined that certain model year (MY) 2013–2015 Utilimaster Vans do not fully comply with paragraph S4.5.1(c) of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant crash protection.* Spartan Motors USA, Inc., filed a report dated January 15, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* for Spartan. Spartan then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

DATES: The closing date for comments on the petition is August 22, 2016.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Deliver:* Deliver comments by hand to: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by: Logging onto the Federal Docket Management System (FDMS) Web site at *http://www.regulations.gov/*. Follow the online instructions for submitting comments. Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All documents submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at *http://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown at the heading of this notice.

DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000, (65 FR 19477–78).

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Spartan submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Spartan's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Affected are approximately 910 MY 2013–2015 Utilimaster Vans that were manufactured between July 11, 2014 and December 8, 2015.

III. Noncompliance: Spartan explains that the noncompliance occurred during alterations to the subject vehicles. During alterations the sun visors were removed and then reinstalled. As a result of the reinstallation, the required sun visor air bag warning labels are not visible when the sun visors are in the stowed position. Since the sun visor air bag warning labels are not visible when in the stowed position, an air bag alert label is required and therefore does not meet the requirements as specified in paragraph S4.5.1(c) of FMVSS No. 208.

IV. Rule Text: Paragraph S4.5.1(c) of FMVSS No. 208 requires in pertinent part:

> S4.5.1(c) *Air bag alert label.* If the label required by S4.5.1(b) is not visible when the sun visor is in the stowed position, an air bag alert label shall be permanently affixed to that visor so that the label is visible when the visor is in that position. The label shall conform in content to the sun visor label shown in Figure 6(c) of this standard, and shall comply with the requirements of S4.5.1(c)(1) through S4.5.1(c)(3) . . .

V. Summary of Spartan's Petition: Spartan described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(a) Spartan cited the definition of motor vehicle safety as stated in the Safety Act under 49 U.S.C. 30111(a). Spartan also cited 49 U.S.C. 30118(d) under the Safety Act where Congress acknowledges that there are cases where a manufacturer has failed to comply with a safety standard, yet the impact on motor vehicle safety is so slight that an exemption from the notice and remedy requirements of the Safety Act is justified.

(b) Spartan stated that S4.5.1(b)(2) of FMVSS No. 208 requires an air bag warning label to be installed, at the manufacturer's option, on either side of the sun visor at each outboard seating position equipped with an inflatable restraint. Within that same section of FMVSS No. 208, it states that air bag warning labels are to be installed, at the manufacturer's option, in accordance with Figure 8 or 11 of the standard. Footnotes under Figures 8 and 11, among others, state "Sun Visor Label Visible when Visor is in Down Position."

Spartan submitted a photograph depicting that the air bag warning label on the subject vehicles is visible when the sun visor is in the down position, however, the content is inverted.

(c) Spartan specified that the content of the sun visor label identifies the risks associated with the placement of children, or child seats, encourages the use of seatbelts, and defers to the owner's manual for information pertaining to the air bags.

Spartan notes that they are a vehicle alterer in this case and are not responsible for the content of the air bag warning label and that they make no assertions relating to compliance of the label. However, during alterations to the vehicles they do remove and reinstall the sun visors.

(d) Spartan also stated that they alter a completed vehicle (in this case a van) to become a vocational vehicle intended to be used as a delivery service vehicle (*i.e.,* a vehicle used to carry parcel packages or other goods.) And although, the altered vehicle would be equipped with two outboard seating positions, delivery service vehicles are typically occupied by the driver who has a specific purpose of delivering goods. Given the nature of, or intended use, the vehicle, it would be unlikely for children to be placed in the passenger seating area.

(e) Spartan clearly expressed that they do not alter information in the owner's manual although it may provide supplements related to the alterations being made. Spartan says that the content in the owner's manual states that the air bag system is supplemental to the seat belts and further describes risks associated with the air bag system. Furthermore, the information in the owner's manual discusses an air bag warning indicator (tell-tale) of which the vehicle is equipped and its function (this indicator would provide indication to the driver that the vehicle is equipped with an air bag system.)

(f) Spartan believes that while the content on the sun visor warning label (although not provided by Spartan) may not be in the upright position to be easily read by the occupants, it is visible with the sun visor in the down position. And even though the label is inverted, the coloring scheme would continue to signify risks associated with the air bag system.

Spartan elaborated by saying that the information within the owner's manual for the affected vehicles expands on potential risks related to the system but also encourages the use of seatbelts as the primary purpose of occupant protection.

Spartan additionally informed NHTSA that on December 8, 2015 containment actions were conducted and all units in control of Utilimaster were inspected and the noncompliance corrected. This included vehicles currently undergoing alterations.

In summation, Spartan believes that given the vocational use of the affected vehicles and information provided in the foregoing that the subject noncompliance is inconsequential to motor vehicle safety, and that its petition, to exempt Spartan from providing notification of the noncompliances as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Spartan no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Spartan notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2016–17189 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Intelligent Transportation Systems Program Advisory Committee; Notice of Meeting

AGENCY: ITS Joint Program Office, Office of the Assistant Secretary for Research and Technology, U.S. Department of Transportation.

ACTION: Notice.

The Intelligent Transportation Systems (ITS) Program Advisory Committee (ITSPAC) will hold a meeting on August 11, 2016, from 8:00 a.m. to 4:00 p.m. (EDT) in the Crystal Gateway Marriott Hotel, 1700 Jefferson Davis Highway, Arlington, VA 22202.

The ITSPAC, established under Section 5305 of Public Law 109–59, Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, August 10, 2005, and re-established under Section 6007 of Public Law 114–94, Fixing America's Surface Transportation (FAST) Act, December 4, 2015, was created to advise the Secretary of Transportation on all matters relating to the study, development, and implementation of intelligent transportation systems. Through its sponsor, the ITS Joint Program Office (JPO), the ITSPAC makes recommendations to the Secretary regarding ITS Program needs, objectives, plans, approaches, content, and progress.

The following is a summary of the meeting tentative agenda: (1) Welcome, (2) Discussion of Potential Advice Memorandum Topics, (4) Summary and Adjourn.

The meeting will be open to the public, but limited space will be available on a first-come, first-served basis. Members of the public who wish to present oral statements at the meeting must submit a request to *ITSPAC@dot.gov*, not later than August 4, 2016.

Questions about the agenda or written comments may be submitted by U.S. Mail to: U.S. Department of Transportation, Office of the Assistant Secretary for Research and Technology, ITS Joint Program Office, Attention: Stephen Glasscock, 1200 New Jersey Avenue SE., HOIT, Washington, DC 20590 or faxed to (202) 493–2027. The ITS JPO requests that written comments be submitted not later than August 4, 2016.

Notice of this conference is provided in accordance with the Federal Advisory Committee Act and the General Services Administration regulations (41 CFR part 102–3) covering management of Federal advisory committees.

Issued in Washington, DC, on the 18th day of July, 2016.

Stephen Glasscock,

Designated Federal Officer, ITS Joint Program Office.

[FR Doc. 2016–17218 Filed 7–20–16; 8:45 am]

BILLING CODE 4910–22–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION
1985

FEDERAL REGISTER

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Part II

Department of Labor

Employee Benefits Security Administration

29 CFR Parts 2520 and 2590
Annual Reporting and Disclosure; Proposed Rule

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Parts 2520 and 2590

RIN 1210–AB63

Annual Reporting and Disclosure

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This document contains proposed amendments to Department of Labor (DOL) regulations relating to annual reporting requirements under Part 1 of Subtitle B of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA). The proposed amendments contained in this document would conform the DOL's reporting regulations to proposed revisions to the Form 5500 Annual Return/Report of Employee Benefit Plan and Form 5500–SF Short Form Annual Return/Report of Small Employee Benefit Plan, which are being published concurrently in today's **Federal Register** in a separate Notice of Proposed Forms Revisions (NPFR) prepared jointly by the Department of Labor (DOL), the Internal Revenue Service (IRS), and the Pension Benefit Guaranty Corporation (PBGC) (collectively the Agencies). The proposed regulation, and related forms revisions, would improve employee benefit plan reporting for filers, the public, and the Agencies. The revision is necessary because the annual return/report forms have not kept pace with market developments and changes in the laws covering employee benefit plans, presenting problems with outdated and missing information that negatively impact the Agencies' effective and efficient protection of employee retirement and health benefits. The proposed revisions would affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers.

DATES: Written comments must be received by the Department of Labor on or before October 4, 2016.

ADDRESSES: To facilitate the receipt and processing of written comment letters on the proposed regulation, EBSA encourages interested persons to submit their comments electronically. You may submit comments, identified by RIN 1210–AB63, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow instructions for submitting comments.

Email: e-ORI@dol.gov. Include RIN 1210–AB63 in the subject line of the message.

Mail: Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: RIN 1210–AB63; Annual Reporting and Disclosure, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Hand Delivery/Courier: Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: RIN 1210–AB63; Annual Reporting and Disclosure, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: All comments received must include the agency name and Regulatory Identifier Number (RIN) for this rulemaking (RIN 1210–AB63). Persons submitting comments electronically are encouraged not to submit paper copies. All comments received will be made available to the public, posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa,* and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mara S. Blumenthal, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8523 (not a toll-free number) for all changes other than group health plan information; Suzanne Adelman, EBSA, U.S. Department of Labor, 202–693–8383 (not a toll-free number), for questions relating to the collection of group health plan information.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose of the Regulatory Action

Under Titles I and IV of ERISA and the Internal Revenue Code (Code), pension and other employee benefit plans are generally required to file annual returns/reports concerning, among other things, the financial condition and operations of the plan. Filing a Form 5500 Annual Return/Report of Employee Benefit Plan (Form 5500 Annual Return/Report), or a Form 5500–SF Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500–SF) (depending on certain plan characteristics), together with any required schedules and attachments (together "the Form 5500 Annual Return/Report"), in accordance with their instructions, generally satisfies these annual reporting requirements. In addition to being an important disclosure document for plan participants and beneficiaries, the Form 5500 Annual Return/Report is a critical enforcement, compliance, and research tool for the DOL, IRS, and the PBGC (together "Agencies"). It is also an important source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. In the United States, there are an estimated 2.3 million health plans, a similar number of other welfare plans, and nearly 681,000 private pension plans. These plans cover roughly 143 million private sector workers, retirees, and dependents, and have estimated assets of $8.7 trillion. The Form 5500 Annual Return/Report is the principal source of information and data concerning the operations, funding, and investments of more than 806,000 of these pension and welfare benefit plans.

Generally, the Agencies have conducted notice and comment rulemaking before making significant changes to the forms and schedules. This proposed revision to the DOL's reporting regulations is needed to implement the forms revisions proposed in the three-agency (DOL, IRS, and the PBGC) Notice of Proposed Forms Revisions (NPFR), which is being published separately in today's **Federal Register**.

As noted above and discussed in detail below, because the Form 5500 Annual Return/Report has not kept pace with market developments and changes in the laws covering employee benefit plans, problems with outdated and missing information negatively impact the Agencies' effective and efficient protection of employee retirement and group health benefits. That fact is reflected in the more than 15 reports that have been issued since the publication of the last major forms revisions from the Government Accountability Office (GAO), the DOL's Office of Inspector General (DOL–OIG), the United States Treasury Inspector General for Tax Administration (the TIGTA), and the ERISA Advisory Council that all call for expanded annual reporting by employee benefit plans and improvements in the Form 5500 Annual Return/Report.[1] In developing these proposed updates to the Form 5500 Annual Return/Report, the DOL, along with IRS and PBGC, carefully considered those reports in determining where changes are needed.

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[1] *See, e.g.,* U.S. Gov't Accountability Office, GAO–10–54, *Private Pensions: Additional Changes Could Improve Employee Benefit Plan Financial Reporting*

In addition, a significant update being made to the Form 5500 Annual Return/Report is the introduction of basic reporting requirements for all plans that provide group health benefits that have fewer than 100 participants and are covered by Title I of ERISA, most of which are currently exempt from reporting requirements, and the addition of a new schedule (Schedule J) proposed to be required for all group health plans. This reflects a new emphasis on transparency under the Affordable Care Act [2] and a desire to offer plan sponsors the opportunity to satisfy certain Affordable Care Act reporting requirements addressed in this proposal by a more robust Form 5500 Annual Return/Report filing for those group health plans currently required to file and by elimination of the current exemption for plans that provide group health benefits that have fewer than 100 participants that are fully insured, unfunded, or a combination. Once finalized, these proposed changes will result in annual return/report forms that are a more effective policy, enforcement, and research tool, and one that will increase transparency, accountability, and confidence in the employee benefit plan system.

The Agencies' proposed changes to the Form 5500 Annual Return/Report also should be viewed in light of the fact that the last two major revisions of the Form 5500 Annual Return/Report [3] occurred in 1999 and 2009 in connection with a major shift from a paper-based filing system to the current internet-based wholly electronic filing and electronic data processing system (EFAST and now EFAST2), which is operated by a private sector contractor. For the last two major form revision cycles, the Agencies were focused on moving filers to new technologies for filing Form 5500 Annual Return/Report data. In recognition of the burden and challenges that filers would face in migrating to new filing technologies, the Agencies' generally deferred proposing major form changes that would add substantial new burdens. In fact, by deferring our current proposals until now, the new EFAST2 capabilities are making more feasible and efficient processing of both the existing and the expanded data we are proposing to collect.

B. Summary of the Major Revisions of the Regulatory Action

The proposed forms revisions and the DOL implementing regulations are intended to address changes in applicable laws and the employee benefit plan and financial markets, and corresponding shifts in agency priorities and needs since the last major revision. The proposed revisions are also expected ultimately to make filing and processing more efficient and accurate and to restore a greater level of transparency in the employee benefit plan market.[4] The proposed forms revisions fall under the following general categories:

1. Modernize Financial and Investment Reporting by Pension Plans

A key component of the proposal would expand and modernize financial and investment information reported by pension plans. Reporting on the financial operations and integrity of U.S. private pension plans (both defined benefit and defined contribution) is critical given the ongoing importance of such plans to the retirement security of America's workforce. Moreover, improved transparency of financial products and investments acquired by plans is critical to the ability of the Agencies to fulfill their statutory oversight role. It is also important for ongoing monitoring of retirement plans by employers, plans, participants and beneficiaries, and policy makers. These proposed changes to financial reporting are specifically designed to improve reporting of alternative investments, hard-to-value assets, and investments through collective investment vehicles and participant-directed brokerage accounts.

An overriding objective of these proposed revisions to the financial

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(2009) (available at *www.gao.gov/assets/300/298052.pdf*); *U.S. Gov't Accountability Office, GAO–14–441, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information* (2014) (available at *www.gao.gov/products/GAO-14-441*); *2013 ERISA Advisory Council Report: Private Sector Pension De-risking and Participant Protections, Dep't of Labor, www.dol.gov/ebsa/publications/2013ACreport2.html*); *Dep't of Labor Office Of Inspector Gen., 05–14–003–12–12, EBSA Could Improve Its Usage of Form 5500 Data* (2014) (available at *www.oig.dol.gov/public/reports/oa/2014/05-14-003-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–14–92, Private Pensions: Clarity of Required Reports and Disclosures Could Be Improved* (2013) (available at *www.gao.gov/assets/660/659211.pdf*); *U.S. Gov't Accountability Office, GAO–14–92, Private Pensions: Clarity Of Required Reports And Disclosures Could Be Improved, Report to Congressional Requesters* (2013) (available at *www.gao.gov/assets/660/659211.pdf*); *U.S. Dep't of Labor Office of Inspector Gen., 09–13–001–12–121, Employee Benefits Security Administration Needs to Provide Additional Guidance And Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments* (2013) (available at *www.oig.dol.gov/public/reports/oa/2013/09-13-001-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–12–665, Private Sector Pensions: Federal Agencies Should Collect Data and Coordinate Oversight of Multiple Employer Plans* (2012) (available at *www.gao.gov/assets/650/648285.pdf*); *U.S. Dep't of Labor Office Of Inspector Gen., 09–12–002–12–121, Changes Are Still Needed In The ERISA Audit Process To Increase Protections For Employee Benefit Plan Participants* (2012) (available at *www.oig.dol.gov/public/reports/oa/2012/09-12-002-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–12–325, 401(K) Plans: Increased Educational Outreach and Broader Oversight May Help Reduce Plan Fees* (2012) (available at *www.gao.gov/products/GAO-12-325*); *U.S. Gov't Accountability Office, GAO–08–692, Defined Benefit Plans: Guidance Needed to Better Inform Plans of the Challenges and Risks of Investing in Hedge Funds and Private Equity* (2012) (available at *www.gao.gov/products/GAO-08-692*); *Treasury Inspector Gen. for Tax Administration, The Employee Plans Function Should Continue Its Efforts to Obtain Needed Retirement Plan Information* (2011) (available at *www.treasury.gov/tigta/auditreports/2011reports/201110108fr.pdf*); *2011 ERISA Advisory Council Report: Hedge Funds and Private Equity Investments, Dep't of Labor, www.dol.gov/ebsa/publications/2011ACreport3.html*); *2013 ERISA Advisory Council Report: Locating Missing and Lost Participants, Dep't of Labor, www.dol.gov/ebsa/publications/2013ACreport3.html#2; 2010 ERISA Advisory Council Report: Employee Benefit Plan Auditing and Financial Reporting Models, Dep't of Labor, www.dol.gov/ebsa/publications/2010ACreport2.html; 2008 ERISA Advisory Council Report: Working Group on Hard-to-Value Assets and Target Date Funds, Dep't of Labor, www.dol.gov/ebsa/publications/2008ACreport1.html.*

[2] The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010. These statutes generally are collectively known as the "Affordable Care Act."

[3] The Agencies' last tri-agency major revision to the Form 5500 Annual Return/Report series was effective for the 2009 plan year forms. Before that, the last major revision was effective for the 1999 plan year forms and was implemented together with the initial implementation of EFAST. In interim years, the Agencies have made other focused changes, which are set forth annually in the "Changes to Note" section in the instructions.

[4] In addition, this rulemaking and forms revisions are being coordinated generally with a re-bid and updating of the ERISA Filing Acceptance System (EFAST2)—the wholly electronic Form 5500 Annual Return/Report filing and processing system. Unlike the 1999 and 2009 forms revisions, the re-bid of EFAST2 does not involve major changes in the EFAST2 key system requirements, capabilities, and functions. Rather, although there are some changes to the system, the re-bid process is largely being undertaken in response to Federal Acquisition Regulation (FAR) requirements on periodic re-bidding of longer term contracts. Under these circumstances, there may be opportunities to implement various form changes either before or after the re-bid EFAST2 contract is awarded. The timing of the re-bid of EFAST2 and implementation of form changes may also be affected by whether funds necessary for the re-bid or form implementation are appropriated as part of the Agencies' respective budgets. Accordingly, although the overall objective is to implement these proposed form changes as part of a re-bid EFAST2 contract, rulemaking and budget issues may require the Agencies to consider a more staged approach.

information collected as part of the annual return/report is to present plan financial and balance sheet information, including the currently required schedules of assets, in a way that better reflects the investment portfolios and asset management practices of employee benefit plans. The basic objective of ERISA's mandatory financial reporting is to provide information about the reporting entity for the Agencies' enforcement, research, and policy formulation programs; for other federal agencies, Congress, and the private sector to assist them in assessing employee benefit, tax, and economic trends and policies; and for plan participants and beneficiaries and the general public to understand and monitor better the activities and investments of employee benefit plans. As reflected in the various reports from the GAO, the DOL–OIG, the ERISA Advisory Council, and the TIGTA, the current information collected on the Form 5500 Annual Return/Report and Form 5500–SF is insufficient to satisfy those objectives.

The financial statements contained in the current Schedule H (Large Plan Financial Information) and Schedule I (Small Plan Financial Information) are based on data elements that have remained largely unchanged since the Form 5500 Annual Return/Report was established in 1975. Over the past four decades, the U.S. private pension system has shifted from defined benefit (defined benefit or DB) pension plans toward defined contribution (defined contribution or DC) pension plans, often participant-directed 401(k)-type DC pension plans. The financing of retirement benefits has changed dramatically coincident with the shift from DB to DC pension plans. In 1978, when legislation was enacted authorizing 401(k) plans that allow employees to contribute to their own retirement plan on a pre-tax basis, participants contributed only 29 percent of the contributions to DC pension plans and only 11 percent of total contributions to both DB and DC pension plans. "In the years following 1978, employee contributions to DC pension plans steadily rose to a peak of approximately 60 percent in 1999, where it has remained." *See Dep't of Labor, Private Pension Plan Bulletin Abstract of 2012 Form 5500 Annual Reports,* at 1 (2015). Simultaneously, the number of single-employer DB pension plans has decreased from 92,000 in 1990 to just under 29,000 single-employer pension plans in 2009. *See U.S. Gov't Accountability Office, GAO–09–291, Defined Benefit Pensions: Survey Results of the Nation's Largest Private Defined Benefit Plan Sponsors Highlights* (2009) (available at *http://www.gao.gov/new.items/d09291.pdf*).

The shift from DB pension plans to DC pension plans—and the corresponding increase of participants' own contributions to those plans as opposed to employer contributions—has led to increased responsibility for participants to manage their own retirement savings, which includes having to select among investment options in their retirement plans. *See Private Pension Plan Bulletin Abstract Of 2012 Form 5500 Annual Reports,* at 2 (Of the 516,000 section 401(k)-type plans in 2012, 87.8 percent allowed participants to direct investment of all of their assets, and 3.1 percent allowed participants to direct investment of a portion of their assets.) The need for more relevant and comparable financial information is not limited to 401(k) and other DC pension plans; it also extends to DB pension plans. Reports cited above from GAO, the DOL–OIG, the TIGTA, and the ERISA Advisory Council also have focused on the need for increased transparency and accountability generally in connection with employee benefit plan investments in hard-to-value and alternative assets, as well as assets held through pooled investment vehicles.

Further, the Agencies need better information to effectively oversee and enforce existing rules and regulations. For example, as part of the 1999 and 2009 forms revisions, the Agencies stopped collecting a variety of information regarding ESOPs. ESOPs, however, continue to be a significant enforcement focus and concern for both DOL and the Department of Treasury (Treasury)/IRS. Under the proposal, ESOPs would be required to again report information, on the Schedule E, about their employer stock acquisitions. Plan investment in hard-to-value and other alternative investments, such as derivatives, limited partnerships, hedge funds, private equity, and real estate, was highlighted as an oversight risk by both GAO and the DOL–OIG. Plans invested in derivatives, limited partnerships, hedge funds, private equity, real estate, and other alternative investments would be required under the proposal to identify such investments specifically. Having plans and direct filing entities (DFEs) report this information would be a significant improvement; the Agencies would no longer be limited to identifying issues involving investments in derivatives and other hard-to-value assets by opening investigations on a plan-by-plan basis. For example, regulators would be able to search the data base for particular investments or managers where there were indications that there were problems with such investment or manager for all plans that made such investments. The improved financial transparency in the proposed revisions to the Form 5500 Annual Return/Report data collection in general would better enable public and private data users to identify patterns and trends in plan investments and behavior.

For defined contribution pension plans, especially participant-directed plans, the proposal also would provide better information on employee participation rates in 401(k)-type plans and more relevant information on the types of investment alternatives available in such plans (including information on each designated investment alternative in the plan, information on qualified default investment alternatives, and information on whether the investment alternatives are actively managed or passively managed index funds). As Form 5500 Annual Return/Report information is required by Title I of ERISA to be publicly available, not only would expanded data collection assist in the Agencies' research and policymaking objectives, public access to this information would enable interested private sector and other governmental stakeholders to perform data-based research or help plan sponsors, fiduciaries, and participants and beneficiaries better understand their plan and plan investments. For example, it would be more feasible to compare performance of plans based on types of investments, and get information on how certain plan investment options and structures might correlate to participation, overall performance, or best preparation of workers for retirement.

2. Support Oversight of Group Health Plans and Ongoing Implementation of the Affordable Care Act

The proposed forms revisions and DOL implementing regulations would expand Form 5500 reporting by group health plans[5] by eliminating obsolete exemptions for certain plans from Form 5500 reporting. Specifically, most private employer-sponsored group health plans with fewer than 100 participants that are fully insured, unfunded, or a combination of the two, currently do not file the Form 5500 Annual Return/Report under the terms of the current DOL exemptions. As a result, for policy formulation, research, and regulatory impact analyses, the DOL must rely on surveys, instead of Form 5500 Annual Return/Report data, to generate even basic estimates of the size of the ERISA group health plan universe that is a major part of the nation's health care delivery system. The current lack of information collected on the Form 5500 Annual Return/Report from group health plans impairs the effectiveness of EBSA's ability to develop health care regulations and complicates the DOL's ability to enforce such regulations and educate plan administrators regarding compliance.

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[5] Under the proposed changes, all "group health plans" that meet the definition in 733(a) of the Act, including plans that claim "grandfathered" status under 29 CFR 2950.715–1251, are required to file some or all of the Form 5500 Annual Return/Report and applicable schedules, including the Schedule J, regardless of whether such plans are exempt from certain market reform requirements under ERISA § 732(a) (exemption for certain small group health plans that have less than two participants who are current employees) or ERISA § 733(c) (group health plans consisting solely of excepted benefits). Employee welfare benefit plans as defined in ERISA § 3(1) that do not meet the definition of "group

In addition, section 1253 of the Affordable Care Act requires the Secretary of Labor to prepare an annual report that includes certain general information on self-insured group health plans using data collected from the Form 5500 Annual Return/Report (the "Self-Insured Health Plan Report"). Current Form 5500 Annual Return/Report data provides the basis only for an incomplete assessment of self-insured plans. For example, information about the amount of outstanding claims for a self-insured plan, a proposed new data element on the Schedule J, would be a critical flag that would identify the need for further inquiry or investigation of a group health plan that may be unable to pay outstanding claims. Early intervention by EBSA could prevent a participant from facing bankruptcy over unpaid medical expenses that otherwise would have been covered had the group health plan been properly funded.

We expect more group health plan filings will help the DOL allocate enforcement resources and streamline enforcement actions. For example, these additional filings will enable the DOL to correlate information reported by different group health plans to help identify widespread noncompliance perpetuated by a common service provider rather than relying on multiple investigations of client plans to detect a pattern of non-compliance by a single service provider. Obtaining a correction by going directly to the service provider makes the correction process more efficient for the service provider and the Department and results in uniform and efficient corrective action for participating plans. EBSA anticipates that Form 5500 Annual Return/Report data may similarly be used in future versions of the biennial Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act (MHPAEA) Report to Congress on the compliance of group health plans and health insurance coverage offered in connection with such plans with the requirements of MHPAEA. The proposed changes to group health plan reporting thus are important to the government's ability to accomplish oversight obligations under the Affordable Care Act and other federal laws governing group health plans, to more effectively monitor health policy issues as they pertain to ERISA-covered plans, and to provide Congress with accurate information about self-insured plans and whether the plan is complying with the protections of MHPAEA.

3. Reporting To Satisfy Public Health Service Act Sections 2715A and 2717

Sections 2715A and 2717 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act and incorporated into ERISA section 715,[6] include important new reporting requirements for group health plans and health insurance issuers in the group and individual markets. Specifically, section 2715A of the PHS Act incorporates the transparency provisions of section 1311(e)(3) of the Affordable Care Act to require non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to make available to the DOL, the Department of Health and Human Services (HHS), Treasury, State insurance commissioner, and the public a host of information on health plan enrollment and claims.[7] This includes: (1) Claims payment policies and practices; (2) periodic financial disclosures; (3) data on enrollment and disenrollment; (4) data on the number of denied claims; (5) data on rating practices; (6) information on cost-sharing and payments with respect to any out-of-network coverage; (7) information on enrollee and participation rights; and (8) other information as determined by the Secretary. Moreover, section 2717 of the PHS Act generally requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to report annually to the DOL, HHS and the Treasury and to enrollees under the plan whether the benefits under the plan: (A) Improve health outcomes through the implementation of activities such as quality reporting, effective case management, care coordination, chronic disease management, and medication and care compliance initiatives, including through the use of the medical homes model as defined for purposes of section 3602 of the Affordable Care Act, for treatment or services under the plan or coverage; (B) implement activities to prevent hospital readmissions through a comprehensive program for hospital discharge that includes patient-centered education and counseling, comprehensive discharge planning, and post discharge reinforcement by an appropriate health care professional; (C) implement activities to improve patient safety and reduce medical errors through the appropriate use of best clinical practices, evidence based medicine, and health information technology under the plan or coverage; and (D) implement wellness and health promotion activities.

These regulations propose conforming amendments in 29 CFR 2590.715–2715A and 29 CFR 2590.715–2717 to clarify that compliance with the reporting requirements in 29 CFR 2520.103–1 (including filing any required schedules to the annual report) by plans subject to ERISA would satisfy the reporting requirements of PHS Act sections 2715A and 2717, incorporated in ERISA through ERISA section 715(a)(1).[8] As explained in FAQs issued

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health plan" under 733 of the Act (*i.e.*, they do not provide benefits for medical care) are not subject to the proposed enhanced reporting requirements applicable to group health plans.

[6] Sections 2715A and 2717 of the PHS Act are also incorporated into section 9815(a)(1) of the Code.

[7] Information required under sections 2715A and 2717 of the PHS Act that is provided as part of a Form 5500 Annual Return/Report would be made available to the public and to the plan's participants and beneficiaries. Section 104(b)(4) of ERISA requires the plan administrator, on written request of a participant or beneficiary, to furnish among other documents, a copy of the latest annual report. See also 29 CFR 2520.104b–1(b)(2). The DOL's regulation at 29 CFR 2520.104b–30 provides that the plan administrator of an employee benefit plan may impose a reasonable charge that is not to exceed 25 cents per page to cover the cost of furnishing the latest annual report, but also provides that participants and beneficiaries must be provided at no charge a copy of the statement of the assets and liabilities of the plan and accompanying notes, and the statement of income and expenses of the plan and accompanying notes. See also 29 CFR 2520.104b–10(d)(3) and (4).

[8] The Treasury Department and the IRS intend to publish proposed regulations in 26 CFR 54.9815–2715A and 54.9815–2717 clarifying that group health plans required to file an annual report pursuant to section 104 of ERISA that comply with the reporting requirements in 29 CFR 2520.103–1 (including filing any required schedules to the

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August 11, 2015,[9] HHS proposed an information collection for public comment in connection with the transparency provisions of section 1311(e)(3) of the Affordable Care Act. The proposed data collection would collect certain information from Qualified Health Plan (QHP) issuers in Federally-facilitated Exchanges and State-based Exchanges that use the federal eligibility and enrollment platform. The HHS proposal explained that other reporting requirements would be proposed at a later time, through a separate rulemaking with respect to non-Exchange coverage, including those that extend to health insurance issuers offering non-grandfathered group or individual health insurance coverage outside of the Exchanges and non-grandfathered group health plans (including large group and self-insured health plans).[10]

This rulemaking proposes transparency and quality reporting for non-grandfathered group health plans under PHS Act sections 2715A and 2717, as incorporated in ERISA. It takes into account differences in markets and other relevant factors to streamline reporting under multiple reporting provisions and reduce unnecessary duplication. The DOL is proposing to collect and provide high-value data to participants, beneficiaries, and regulators, such as information about benefits and plan design characteristics, funding, grandfathered plan status, rebates received by the plan (such as medical loss ratio rebates), service provider information (including information regarding any third party administrators, pharmacy benefit managers, mental health benefit managers, and independent review organizations), information on any stop loss insurance, claims processing and payment information (including number of claims filed, paid, appealed and denied), wellness program information, and other compliance information. In addition to improving DOL's oversight and enforcement activities, the collection of high-value data will lead to greater transparency for consumers, which may assist them in making a decision whether to elect the coverage or opt for another plan such as through their spouse's employer, with the caveat that these data will be collected a number of months after the end of the plan year they describe and thus will not be timely for use in concurrent oversight, enforcement, or consumer choice activities. The DOL may propose collecting additional data in the future. The DOL requests comments regarding other plan characteristics that may be helpful for participants to have information on in evaluating their plan. Further, as noted above, this document includes proposed conforming amendments in 29 CFR 2590.715–2715A and 29 CFR 2590.715–2717 to clarify that compliance with the proposed annual reporting requirements by plans subject to ERISA that provide group health benefits would satisfy the ACA reporting requirements under PHS Act sections 2715A and 2717 incorporated in ERISA through ERISA section 715(a)(1). The Department is specifically seeking public comments on those conforming amendments and the proposed annual reporting requirements for plans that provide group health benefits, including the new Schedule J, in light of the Supreme Court's recent decision in *Gobeille* v. *Liberty Mutual Insurance Co.*, 136 S. Ct. 936 (2016).

4. Modernize Data Collection and Usability

This project would standardize and structure the Form 5500 Annual Return/Report to make key retirement and health and welfare benefit data, including information on assets held for investment, more available and usable in the electronic filing and data environment. Modernization is consistent with the Administration's "Smart Disclosure" effort. *Executive Office of the President of the United States, Nat'l Science and Technology Council, Smart Disclosure and Consumer Decision-making: Report of the Task Force on Smart Disclosure* (2013). The proposed changes would enable private sector data users to develop more individualized tools for employers to evaluate both their retirement and welfare plans and for employees to manage their retirement savings and welfare plan choices.

5. Updating and Improving Reporting of Service Provider Fee and Expense Information

The DOL has been engaged in a long term initiative focused on transparency and oversight of service provider and investment fees and expenses. The fee initiative has focused on reporting indirect compensation received by service providers (2009 Form 5500 Annual Return/Report revisions), disclosures about service provider compensation to plan fiduciaries (DOL's regulation, effective in 2012, at 29 CFR 2550.408b–2), and plan disclosures to participants and beneficiaries particularly in 401(k)-type plans (DOL's regulation, effective in 2012, at 29 CFR 2550.404a–5).

The fee disclosure regulations were finalized after the publication of the 2009 forms changes. The 2009 indirect compensation reporting requirements permitted filers to disclose rather than report most indirect compensation. This was in response to commenters concerns about potentially inconsistent requirements in Form 5500 reporting and disclosure under the then proposed disclosure regulations. Accordingly, the 21st Century initiative includes proposed revisions that are designed to harmonize Form 5500 reporting requirements with the now final disclosure regulations, especially the ERISA section 408b–2 regulation. The GAO, in particular, recommended that the DOL require plans to report all indirect compensation received by certain of their service providers and to harmonize the ERISA section 408b–2 regulation disclosure and annual reporting requirements. *U.S. Gov't Accountability Office, GAO–14–441, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information* (2014) (available at *www.gao.gov/products/GAO–14–441*).

A key purpose of the required fee disclosures in the ERISA section 408b–2 regulation is to help make sure that pension plan fiduciaries can more effectively negotiate service provider fees based on a better understanding of compensation that the service provider expects to receive, including from third-party sources that might represent a conflict of interest. We believe that annually reporting compensation received by a service provider and its sources on the Form 5500 Annual Return/Report will provide a powerful tool and economic basis for improved evaluation of investment, recordkeeping, and administrative service arrangements. We have already

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annual report) would satisfy the reporting requirements of sections 2715A and 2717 of the PHS Act, as incorporated in the Code. Group health plans that are not required to file an annual report pursuant to section 104 of ERISA but that are subject to sections 2715A and 2717 of the PHS Act as incorporated in the Code, will not be required to do any reporting to comply with sections 2715A and 2717 of the PHS Act, as incorporated in the Code, unless and until the Treasury Department and the IRS issue subsequent further guidance or rulemaking regarding any such reporting by such plans.

[9] *See* FAQs about Affordable Care Act Implementation (Part XXVIII), available at *http://www.dol.gov/ebsa/faqs/faq-aca28.html* and *https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ACA-FAQ-Part-XXVIII-transparency-reporting-final-8-11-15.pdf*.

[10] Nonfederal governmental plans (as defined in PHS Act section 2791(d)(8)(C)) and health insurance issuers (as defined in PHS Act section 2791(b)(2) and ERISA section 733(b)(2)) are not required to file annual reports pursuant to ERISA sections 103 or 104. Accordingly, any reporting required of such plans and issuers to satisfy PHS Act sections 2715A and 2717 will be addressed separately by HHS in future rulemakings and/or guidance.

seen innovative uses of Form 5500 Annual Return/Report data by private sector companies that have created tools for evaluating and benchmarking employee benefit plans. Further, service provider failures to disclose indirect compensation as required under the ERISA section 408b–2 regulation have resulted in EBSA obtaining corrective monetary recoveries to plans. Comparing disclosures of anticipated compensation under the ERISA section 408b–2 regulation to compensation received as reported on the Form 5500 Annual Return/Report may uncover disparities between anticipated and actual compensation, which may provide the basis for improved targeting of our enforcement actions.

6. Improving Employee Benefit Plan General Compliance With ERISA and the Code

The Form 5500 Annual Return/Report and related financial audit requirements historically have served to establish discipline for plan fiduciaries by requiring an annual examination of the employee benefit plan's financial and administrative operations. The proposed forms revisions and DOL implementing regulations would add selected new questions regarding plan operations, service provider relationships, and financial management of plans. These questions are intended to compel fiduciaries to evaluate plan compliance with important requirements under ERISA and the Code and to provide the Agencies with improved tools to focus oversight and enforcement resources. The proposed regulations would also update the requirements for certifications for limited scope audits under 29 CFR 2520.103–8.

C. Costs and Benefits

The regulatory impact analysis includes a qualitative discussion of the benefits associated with the proposed rules' five primary objectives. Under the current regulations and forms, the Form 5500 Annual Return/Report annually collects data from approximately 816,000 large and small plan filers—pension and all types of welfare plans, including group health—and DFEs with an aggregate annual cost of $488.1 million. The Form 5500 Annual Return/Report is a central part of the Agencies' enforcement programs, but the benefits of an updated Form 5500 Annual Return/Report would extend beyond the value of enhanced enforcement. A modernized Form 5500 Annual Return/Report that is more aligned with current investment practices and reflects the requirements of current law also has benefits for plan sponsors, plan participants, Congress, academics, and others, as explained in more detail below.

As with the current reporting scheme, the proposed revisions are crafted to limit burden increases for small plans, both pension and welfare, including group health plans. The burden increase for small pension plans that are eligible to file the Form 5500–SF is much less than it is for those pension plans filing the Form 5500 Annual Return/Report that have complex portfolios that include alternative and hard-to-value assets or are employee stock ownership plans, which plans are of greater concern with respect to retirement security of their participants. Similarly, the burden increase for fully insured welfare plans that provide group health benefits with fewer than 100 participants, is much less than it is for welfare plans that provide group health benefits and are fully or partially self-insured, which are at greater risk for non-payment of benefit claims. As is discussed in more detail below, the burden increase for small pension plans that are invested in simple, Form 5500–SF eligible portfolios is very modest, and the changes that apply to those plans (which will mostly apply to all filers) will provide much needed information about the operations, compliance, and asset allocations of such plans. Similarly, welfare plans that provide group health benefits with fewer than 100 participants and that are fully insured, which are currently exempt from filing any Form 5500 Annual Return/Report, would file limited identifying and coverage information. The changes were intentionally limited in order that the burden would be as minimal as possible, while still getting the crucial information about that significant component of the nation's healthcare delivery system and reinforcing for the fiduciaries responsible for many of those plans the need to satisfy important consumer protections required by Title I of ERISA and the Affordable Care Act-related health care benefits. The proposed changes involve only a nominal burden increase for welfare plans other than group health.

Under the proposed regulations and revised forms, the Form 5500 Annual Return/Report would collect data from approximately 2.97 million filers with an aggregate annual cost of $817.0 million. New reporting requirements for the 2.15 million welfare plans that provide group health benefits that we estimate are currently covered under Title I of ERISA, but exempt under current Form 5500 annual reporting rules, represent over 73 percent of the increased burden for the entire proposal. That increase is largely due to the number of new filers and not the per plan cost. Other than the initial filing year burden for learning the new reporting requirements, the burden per plan for even these new filers, almost all of which are fully insured plans with fewer than 100 participants, is very limited because they are only required to provide registration-type and other nominal benefit coverage information.

This expansion in the number of first-time filers that are plans that provide group health benefits that have fewer than 100 participants represents new data on group health care issues that is otherwise unavailable or not gathered in a way that is readily usable for ERISA compliance, policy, and enforcement purposes. From a compliance perspective, requiring reporting will be useful to educate plan sponsors and fiduciaries of their obligations with respect to group health plans. Getting first time information on the full breadth of plans providing health benefits that are subject to ERISA will be key data for policy-making regarding such plans and their participants. From an enforcement perspective, data analysis could lead to detection and intervention in a distressed health plan, which could help minimize financial harm suffered by participants when medical claims are unpaid by such plans. Medical bills contribute to a large and increasing share of personal bankruptcies in the United States.[11] Moreover, the potential burden for new filers is expected to be overcome by satisfying, to some extent, data collections required by Congress in the Affordable Care Act. Sections 2715A and 2717 of the PHS Act, as added by the Affordable Care Act, significantly expand reporting requirements for group health plans subject to ERISA. EBSA is coordinating with HHS on using the Form 5500 Annual Return/Report as an alternative mechanism to satisfy these reporting requirements.[12]

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[11] David U. Himmelstein, M.D., Deborah Thorne, Ph.D., Elizabeth Warren, JD, and Steffie Woolhandler: The American Journal of Medicine, Medical Bankruptcy in the United States, 2007: Results of a National Study. Available online at *http://www.amjmed.com/article/S0002-9343(09)00404-5/abstract?cc=y=.*

[12] Section 2715A of the PHS Act extends the transparency reporting provisions set forth in section 1311(e)(3) of the Affordable Care Act (applicable to issuers of "qualified health plans" offered on Exchanges) to non-grandfathered group health plans and non-grandfathered group or individual health insurance coverage offered through or outside of Exchanges. As more fully described on pages 13–14 herein, section 2717 of the PHS Act generally requires non-grandfathered group health plans and health insurance issuers

Continued

Revisions to the financial schedules (Schedule H and related investment asset reporting changes) and service provider reporting (Schedule C changes) impact predominantly large plans with complex investment portfolios (often involving alternate investments, hard-to-value assets and employer securities). These changes comprise the second and third largest shares of the burden increase, respectively, adding $57.6 million and $12.9 million. Small pension plans that are subject to expanded reporting under these proposed revisions are a small percentage of total small pension plan filers and the additional burdens are generally limited to those plans that choose to invest in alternative and hard-to-value assets, which present more risk and demand more transparency.

Revisions to Schedule D and DFE reporting represent the largest burden reduction within the proposed changes. These changes affect all DFEs and those plans that invest in DFEs and reduce aggregate burden by $10.1 million.

In addition, it is important to note that the total burden associated with the Form 5500 Annual Return/Report has risen from $327.98 million to $488.1 million since the last rulemaking in November 2007 primarily due to the increase in wage rates and the number of plan filers over the last eight years under the current rule. In other words, approximately 90 percent of the $160.1 million increase to the baseline burden since the last RIA was prepared is simply due to changes in the broader economy over the past decade, not this rulemaking.

Estimated Burden Change

Estimated Total Burden Change

	Annual costs (millions)	Annual burden hours[13]
Total for current reporting requirements	$488.1	4.4 million.
Change due to proposed GHP requirements	241.6	2.2 million.
Change due to all other Proposed Requirements	87.2	798,000.
Total for Proposed Reporting Requirements	817.0	7.2 million.
Increase in baseline since 2007 due to update in wage rates	127.0	0.
Increase in baseline since 2007 due to update in number of plans (not including plans subject to new GHP reporting).	16.9	149,000.

Estimated Burden Change by Type of Filer

Type of filer	Number of filers under current (thousands)	Number of filers under proposed (thousands)	Aggregate annual cost under current requirements (millions)	Aggregate annual cost under proposed requirements (millions)	Aggregate annual cost change (millions)
Form 5500 Large Plans	148.5	148.5	$252.4	$309.3	$56.9
Pension/Large	75.1	75.1	141.2	174.6	33.5
Welfare/Large Health	47.9	47.9	91.7	114.2	22.5
Welfare/Large Non-Health	25.6	25.6	19.6	20.5	1.0
Form 5500 Small Pension and Non-Health Plans	29.7	29.7	14.4	38.3	23.9
Pension ESOP	3.8	3.8	1.8	5.8	4.1
Pension Non-ESOP	22.6	22.6	11.1	29.9	18.8
Welfare/Non-Health	3.3	3.3	1.5	2.5	1.0
Form 5500–SF Small Pension and Non-Health Plans	622.4	622.4	205.8	227.3	21.5
Pension	621.8	621.8	205.6	227.0	21.4
Non-Health Welfare	0.7	0.7	0.2	0.2	0.0
Form 5500 Small Health	6.2	2,158.0	4.1	227.9	223.86
Fully Insured Health	0.0	1,869.0	0.0	69.6	69.6
Other Health	6.2	289.0	4.1	158.2	154.2
DFEs	9.4	8.9	11.4	14.2	2.8
Overall Total	816.3	2,967.5	488.1	817.0	328.8

Note: Some displayed numbers do not sum up to the totals due to rounding.
Large plans—100 participants or more.
Small plans—generally fewer than 100 participants.

Estimated Burden Change by Form Revision

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offering non-grandfathered group or individual health insurance coverage to submit annual reports to the DOL, HHS and the Treasury regarding quality of care programs offered by the plan.

[13] The Burden Hours column shows the amount of time necessary to fulfill filing requirements, whether that burden is incurred by the plans themselves or by outside service providers hired by the plans. The Cost column shows the monetized version of those burden hours.

Revisions	Change in annual costs (millions)	Change in annual burden hours (thousands)	Filers under current requirements (thousands)	Filers under proposed requirements (thousands)[14]	Annual cost per affected filer
Changes in Schedule H (Including changes to Schedules of Assets and Reportable Transactions) and Eliminate Schedule I	$57.6	535.4	115.1	114.6	$502
Schedule C	12.9	116.6	82.4	100.2	128
DFE Reporting Changes (Including changes to Schedule D)	−10.1	−94.2	61.1	8.9	−1,137
Schedule E	2.5	22.0	0.0	6.7	374
Completion of lines 1–5 on Form 5500 and lines 1–8 on Schedule J by fully insured GHPs with fewer than 100 participants	69.6	623.0	0.0	1,869	37
Completion of Form 5500 by GHPs with fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust and GHPs with 100 or more participants	39.0	349.1	54.1	336.9	116
Completion of Schedule J by GHPs with fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust and GHPs with 100 or more participants	133.0	1,179.2	0.0	336.9	395
All Other Revisions	24.4	217.9	1,076.7	1,024.2	24

II. Discussion of the Proposed Revisions to 29 CFR Part 2520

ERISA section 103 broadly sets out annual financial reporting requirements for employee benefit plans. The Form 5500 Annual Return/Report and the DOL's related regulations generally are promulgated under the ERISA provisions authorizing limited exemptions to these requirements and simplified reporting and disclosure for welfare plans under ERISA section 104(a)(3), simplified annual reports under ERISA section 104(a)(2)(A) for pension plans that cover fewer than 100 participants, and alternative methods of compliance for all pension plans under ERISA section 110. The forms, instructions, and related regulations are also promulgated under the DOL's general regulatory authority in ERISA sections 109 and 505.

The forms, schedules, and instructions, in addition to providing an alternative method of compliance under ERISA section 110 for the mandatory reporting requirements under section 103, also serve to help the DOL carry out its statutory directives under sections 506 and 513 of ERISA. Specifically, section 506(a) of ERISA authorizes the Secretary of Labor to coordinate with other Agencies to avoid unnecessary expense and duplication of functions among Government agencies; the Form 5500 Annual Return/Report is designed to simultaneously satisfy annual reporting requirements for each of the three Agencies and help the Agencies more effectively and efficiently (from both an Agency and a public perspective) enforce the provisions of ERISA and the Code. Section 506(b) gives the DOL responsibility for detecting and investigating civil and criminal violations of Title I of ERISA. The Form 5500 Annual Return/Report is one of the important tools the DOL uses to effectuate its responsibility to detect and investigate such violations. Section 513(b)(2) of ERISA specifically directs DOL to undertake research studies relating to pension plans, including but not limited to (A) the effects of this subchapter upon the provisions and costs of pension plans, (B) the role of private pensions in meeting the economic security needs of the Nation, and (C) the operation of private pension plans including types and levels of benefits, degree of reciprocity or portability, and financial and actuarial characteristics and practices, and methods of encouraging the growth of the private pension system. The Form 5500 Annual Return/Report is the most important overall tool DOL has to fulfill this statutory imperative, and the changes in the proposal are essential for required research, as well as enforcement.

The proposed changes to the Form 5500 Annual Return/Report and regulations are designed to: (1) Modernize financial information filed regarding plans; (2) harmonize information on fees and expenses that plans pay to service providers with the information that service providers disclose to plans under 29 CFR 2550.408b–2; (3) enhance mineability of data filed on the Form 5500 Annual Return/Report; (4) require reporting by all plans covered by Title I of ERISA that provide health benefits, including adding a new Schedule J (Group Health Plan Information); and (5) focus filers on compliance with certain ERISA and Code provisions through new questions on plan operations, service provider relationships, and financial management. If adopted, the changes generally would apply for plan years beginning on or after January 1, 2019. See the regulatory impact analysis in this document for a discussion of how the proposed amendments and the proposed form revision address these goals. These revisions are being proposed in conjunction with recompeting the contract for operation of the ERISA Filing and Acceptance System (EFAST2), which is expected to begin processing Plan Year 2019 forms, beginning January 1, 2020. Certain changes may be made earlier, particularly those changes collecting information under the Code or Title IV of ERISA that do not require amendment to DOL regulations to implement (but not those related to group health plans). The Notice of Proposed Forms Revisions published concurrently in today's **Federal Register** sets forth a comprehensive discussion of form and instruction changes that relate to this proposed regulation.

1. Section 2520.103–1

Section 2520.103–1 generally describes the content of the Form 5500 Annual Return/Report as a limited exemption and alternative method of compliance for ERISA-covered employee benefit plans to satisfy annual reporting requirements under Title I. To accommodate the form, schedule, and instruction changes in the Notice of Proposed Forms Revisions, the proposed regulatory amendments in this document would update form and schedule references in § 2520.103–1. The proposal would also require all plans that provide group health benefits, regardless of size, to file the Form 5500 Annual Return/Report in accordance with the instructions. Group health plans, regardless of size, would not be eligible to file the Form 5500–SF.[15] The proposal would also require pension benefit plans with fewer than 100 participants that are required to file the Form 5500 Annual Return/Report to file the Schedule C (Service Provider Information). It would also generally require both large and small employee stock ownership plans to file the Schedule E (ESOP Information). Under the proposal, only DFEs would be required to complete the Schedule D to report participating plan information; plans would no longer be required to file Schedule D because they would be reporting detailed information about the collective investment vehicles in which they invest, including DFEs, on the Schedule of Assets Held for Investment and the Schedule of Assets Disposed of During Plan Year. In order to improve the transparency of reporting for plans that participate in a master trust, the proposal would require that master trusts operate either on a calendar year basis or on the same fiscal year as all the plans that participate in the master trust. In general, a master trust is a trust maintained by a bank or similar institution to hold the assets of more than one plan sponsored by a single employer or by a group of employers under common control.

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[14] The elimination of the concept of Master Trust Investment Account reporting and requiring reporting by a master trust instead, whose burden change is accounted for in the DFE Reporting Changes row, results in a reduction in the number of schedules attached. These reductions are reflected in the rows specific to the schedule affected.

2. Section 2520.103–2

Section 2520.103–2 describes the content of the Form 5500 Annual Return/Report for a group insurance arrangement (GIA) that files an annual report under § 2520.104–43. The amendments proposed in this document include the requirement to file the proposed new Schedule J. Group health plans that are part of a GIA would continue to be exempt from filing a Form 5500 Annual Return/Report under 29 CFR 2520.104–43. For plans to be eligible for this exemption, the GIA would have to file a separate Schedule J for each group health plan participating in the GIA.

3. Section 2520.103–3, 2520.103–4, and 2520.103–1(e)

Section 2520.103–3 provides an exemption for employee benefit plans from certain annual reporting requirements for plan assets held in a common collective trust (CCT) maintained by a bank, trust company, or similar institution. Section 2520.103–4 provides a similar exemption for plan assets held in a pooled separate account (PSA) maintained by an insurance carrier. Section 2520.103–1(e) provides for special reporting rules for plans that participate in a master trust. The Notice of Proposed Forms Revisions would alter the annual reporting requirements for plans investing in CCTs, PSAs and master trusts in significant ways to increase the transparency of plan investments in such pooled investment vehicles. The DOL proposes revising language to 29 CFR 2520.103–3, 29 CFR 2520.103–4, and 29 CFR 103–1(e) to reflect those changes.

4. Section 2520.103–6

Section 2520.103–6 sets forth the contents of the Schedule of Reportable Transactions that is part of the Form 5500 Annual Return/Report. The Schedule of Reportable Transactions is required to be filed by plans and DFEs that file their own Form 5500 Annual Return/Report. This schedule is used to report, subject to conditions and exceptions, individual transactions or series of transactions that involve more than five percent of the current value of the assets of the plan or DFE. The existing rules require the schedule to include the name of each party to a "reportable transaction." The form and instructions changes being published concurrently with this document include certain additions and clarifications of the content of the Schedule of Reportable Transactions designed to improve the information regarding parties involved in these significant plan transactions or series of transactions. 29 CFR 2520.103–6(d)(1) sets forth the content requirements for the Schedule of Reportable Transactions. Rather than list all the schedules' content requirements, the proposed amendment to paragraph (d)(1) would simply reference the schedules' contents in the relevant Form 5500 Annual Return/Report instructions.

5. Section 2520.103–8

Section 2520.103–8 implements the limited-scope audit exemption described in ERISA section 103(a)(3)(c). Specifically, this exemption allows a plan to exclude from the examination and report of an independent qualified public accountant (IQPA) any statement or information regarding plan assets held by banks, similar institutions, or insurance carriers if the statement or information is prepared and certified by the bank, similar institution, or insurance carrier. The GAO and the DOL's Inspector General (DOL–OIG) have recommended that the Department revise section 2520.103–8 to improve the information being reported by plan administrators electing a limited scope audit. The DOL agrees that better information is needed by plan administrators in connection with limited scope audits. To address concerns it has observed, as well as to respond to the GAO and the DOL–OIG recommendations,[16] the DOL proposes amending section 2520.103–8. Currently, section 2520.103–8 requires the bank or insurance company to certify the accuracy and completeness of the information being provided by a written declaration which is signed by a person authorized to represent the bank or insurance carrier. The DOL proposes to amend the requirements under section 2520.103–8 to require that the certification:

(1) Appear on a separate document from the list of plan assets covered by the certification;

(2) Identify the bank or insurance company holding those plan assets that are the subject of the certification;

(3) Describe the manner in which the bank or insurance company is holding the assets covered by the certification;

(4) State whether the bank or insurance company is providing current value information regarding the assets covered by the certification, and if so, state that the assets for which current value is being certified are separately identified in the list of assets covered by the certification;

(5) If current value is not being certified for all of the assets covered by the certification, include a caution that the certification is not certifying current value information and the asset values provided by the bank or insurance company may not be suitable for use in satisfying the plan's obligation to report current value information on the Form 5500 Annual Return/Report; and

(6) If the certification is being provided by an agent on behalf of the bank or insurance company, a statement

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[15] The details of the limited reporting that would be required for small fully insured group health plans would be set forth in the instructions.

[16] The Agencies discuss various GAO and DOL–OIG recommendations with respect to the Form 5500 Annual Return/Report and the steps the Agencies are taking that are consistent with the recommendations in the Notice of Proposed Forms Revisions published today in the **Federal Register**.

certifying that the person providing the certification is an authorized agent acting on behalf of the bank or insurance company and affirming that the bank or insurance company is taking responsibility for the accuracy and completeness of the certification and the underlying records used as a basis for the information being certified.

6. Section 2520.103–10

Section 2520.103–10 identifies the financial schedules that are required to be included as part of the Form 5500 Annual Return/Report, which include the "Schedule of Assets Held for Investment" and "Schedule of Assets Acquired and Disposed within the Plan Year." Paragraph (b)(1)(i) of § 2520.103–10 sets forth the content requirements for the Schedule of Assets Held for Investment. The Notice of Proposed Forms Revisions proposes certain additions and clarifications to the content of the Schedule of Assets Held for Investment that are designed to improve the information regarding parties and assets involved in these significant plan investments. Rather than list all the required contents of this schedule, the proposed amendment to paragraph (b)(1)(i) of § 2520.103–10 would simply reference the contents of the schedule listed in the relevant Form 5500 Annual Return/Report instructions.

Paragraph (b)(2)(i) of § 2520.103–10 sets forth the content requirements for the "Schedule of Assets Acquired and Disposed of During the Plan Year." This proposed amendment reflects the Agencies' proposal to revise and rename the current "Schedule of Assets Acquired and Disposed of Within the Plan Year." Filers would be required to report information on the disposal of certain assets, regardless of when the assets were acquired. The Notice of Proposed Forms Revisions also includes certain proposed additions and clarifications of the content of the Schedule of Assets Disposed of During the Plan Year that are designed to improve the information regarding parties and assets involved in these plan transactions. Rather than list the required contents of the Schedule of Assets Disposed of During the Plan Year, the proposed amendment to paragraph (b)(2)(i) of § 2520.103–10 would reference the contents of the schedule listed in the relevant Form 5500 Annual Return/Report instructions.

7. Section 2520.104–20 and 2520.104–26

Section 2520.104–20 provides an exemption from certain annual reporting and disclosure provisions of ERISA for certain welfare plans that cover fewer than 100 participants at the beginning of the plan year and for which benefits are paid exclusively from the general assets of the employer or employee organization sponsoring the plan, exclusively through insurance, or a combination of both. An expansion of the annual reporting of information regarding plans that provide group health benefits is described in detail in the Notice of Proposed Forms Revisions. To implement those changes, the DOL proposes eliminating the existing regulatory exemption for welfare plans that provide group health benefits (the exemption will continue to apply to other small welfare plans). Thus, small plans that provide group health benefits that are unfunded, or a combination of unfunded and fully insured, will be required to file an annual return/report, including the new Schedule J, in accordance with the requirements in the proposed instructions. Under the proposal, small fully insured plans will only be required to answer basic identifying and plan characteristic information on the Form 5500 and limited health plan benefit, insurance, and participant information on the Schedule J. Similarly, the limited exception in § 2520.104–26 for certain unfunded dues-financed welfare plans maintained by employee organizations would be amended to further limit the exemption to those unfunded dues-financed welfare plans that do not provide health benefits.

8. Section 2520.104b–10

Section 104(b)(3) of ERISA provides in part that, each year, administrators must furnish to participants and beneficiaries receiving benefits under a plan materials that fairly summarize the plan's annual report. Section 2520.104b–10 sets forth the requirements for the Summary Annual Report (SAR) and prescribes formats for such reports. The amendments being proposed do not include any change to the SAR requirements. However, in order to facilitate compliance with the SAR requirement, the DOL is updating its cross-reference guide to correspond to the line items of the Form 5500 Annual Return/Report and Form 5500–SF. The cross-reference guide has also been updated to reflect that defined benefit pension plans that furnish an annual funding notice to participants and beneficiaries, pursuant to 29 CFR 2520.101–4, are not required to furnish a SAR. This update reflects statutory changes enacted as part of the Pension Protection Act of 2006 extending the annual funding notice requirements of section 101(f) of ERISA. The cross-reference guide, as before, would continue to be an appendix to 29 CFR 2520.104b–10.

9. Technical and Conforming Changes for Forms and Instructions

Various other technical and conforming changes are being proposed as part of the restructuring of the Form 5500 Annual Return/Report.

III. Regulatory Impact Analysis

Executive Order 12866 and 13563 Statement

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility.

Under Executive Order 12866, it must be determined whether a regulatory action is "significant" and therefore subject to the requirements of the Executive Order and review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action that is likely to result in a rule's (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, it has been determined that this regulatory action is likely to have an annual effect on the economy of $100 million or more. Therefore, this action is being treated as "economically significant" and subject to OMB review under section 3(f)(1) of Executive Order 12866. The DOL accordingly has undertaken to assess the costs and benefits of this regulatory action in satisfaction of the applicable requirements of the Executive Order and provides herein a summary discussion of its assessment.

TABLE 1—ACCOUNTING STATEMENT: ESTIMATED COSTS FROM CURRENT REPORTING REQUIREMENTS TO 2019 REPORTING REQUIREMENTS
[In millions]

Category	Estimates			Units		
	Primary estimate	Low estimate	High estimate	Year dollar	Discount rate (percent)	Period covered
Benefits:						
Annualized Monetized						
($millions/year)						
Annualized Quantified						
Qualitative	The proposal pursues five main objectives: (1) Improve reliability of reporting and transparency of financial products and investments acquired by plans, especially alternative investments, hard-to-value assets, and investments through collective investment vehicles; foster ongoing monitoring of retirement plans by employers, plans, participants and beneficiaries, and policymakers; and better leverage the ability of the Agencies to fulfill their statutory oversight role. (2) Establish better compliance awareness and education, provide critical data for Agency oversight, collect information needed for Congressionally mandated reports on group health plans, and satisfy certain reporting requirements under sections 2715A and 2717 of the PHS Act as added by the Affordable Care Act and incorporated into ERISA section 715. (3) Standardize and structure the Form 5500 Annual Return/Report to make key retirement and health and welfare benefit data, including information on assets held for investment, more available and usable in the electronic filing and data environment, which, consistent with the Administration's "Smart Disclosure" effort, to enable private sector data users to develop more individualized tools for employers to evaluate their retirement plans and for employees to manage their retirement savings. (4) By harmonizing reporting on Schedule C of the Form 5500 Annual Return/Report with the now final disclosure requirements in DOL's regulation at 29 CFR 2550.408b–2, provide a powerful tool and economic basis for improved evaluation of investment, recordkeeping, and administrative service arrangements, including potential innovative uses of Form 5500 Annual Return/Report data by private sector companies that have created tools for evaluating and benchmarking employee benefit plans, provide tools to benefit participants where failures to disclose indirect compensation received by a service provider have resulted in corrective monetary recoveries to plans, as well as minimize filer confusion with the harmonization of reporting and disclosure requirements. (5) Enhance reporting on plan compliance to improve plan operations, protect participants and beneficiaries and their retirement benefits, and educate and provide annual discipline for plan fiduciaries.					
Costs:						
Annualized Monetized	372.6			2016	7	2019 and later.
($millions/year)	366.2			2016	3	2019 and later.
Annualized Quantified						
Qualitative						

Background and Need for Regulatory Action

The Form 5500 Annual Return/Report is the principal source of information and data available to the Agencies concerning the operations, funding, and investments of pension and welfare benefit plans covered by ERISA and the Code. Accordingly, the Form 5500 Annual Return/Report is essential to each Agency's enforcement, research, and policy formulation programs and is a source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as the primary means by which the operations of plans can be monitored by plan participants and beneficiaries and the general public.

As discussed in the Notice of Proposed Forms Revisions published concurrently with this document and below, the DOL has received several reports from the GAO, the DOL–OIG, and the ERISA Advisory Council indicating the need for substantive changes to annual reporting forms and regulations. TIGTA has also suggested to the IRS that substantive changes are needed. In response to these reports, the continued shift from DB to DC plans, and legislative and regulatory changes that have been issued since the last major revision to the Form 5500 Annual Return/Report, the DOL has determined that the substantial revisions to the reporting scheme discussed earlier in this preamble and in the Notice of Proposed Forms Revisions, published concurrently, are necessary and appropriate. These changes will ensure that the Agencies, plan participants and beneficiaries and the general public can monitor the operations of employee benefit plans. With their help, the Form 5500 Annual Return/Report will continue to serve its essential functions.

As described earlier in this document, the proposed revisions to the Form 5500 Annual Return/Report reflect priorities of and efforts by the Agencies to improve the quality of the information collected, while limiting wherever possible, especially for small pension plans invested in easy to value assets and plans that provide group health benefits that have fewer than 100 participants that are fully insured, the overall burden of the statutory reporting requirements and the forms. To accomplish this goal, the Agencies have pursued five objectives. The need for regulatory action to achieve these objectives is discussed below.

(1) *Modernizing financial information.*

Modernizing the Schedule H Balance Sheet and Income Statement: The financial statements contained in the current Schedule H (Large Plan Financial Information) and Schedule I (Small Plan Financial Information) are based on data elements that have remained largely unchanged since the Form 5500 Annual Return/Report was established in 1975. Many investments in alternative and hard-to-value assets and those held through collective investment funds that are frequently held by plans and the investment industry today were not as prevalent in 1975. Thus, they do not fit squarely into any of the existing Schedule H reporting categories. Further, some of these investments in alternative and hard-to-value assets, including those held through collective investment funds, are sufficiently complex that plan administrators and plan accountants may not completely understand how they fit into the balance sheet reporting on the Form 5500 Annual Return/Report. This results in inconsistent financial reporting by filers because certain types of investments may arguably fall into one or more categories. For example, a ''hedge'' fund could potentially be reported as a limited partnership or some other type of collective investment entity, or could be reported in a different reporting category based on the primary assets held through a particular type of collective investment vehicle.

Additionally, many filers simply report investments that do not readily fit into one of the existing categories in ''Other.'' For example, large retirement plans reported having $153 billion in assets that they categorized as ''Other'' on the Schedule H balance sheet for 2013. DFEs reported an additional approximately $407 billion in assets as ''Other'' for the 2013 plan year. In order to determine why there is a substantial amount in ''Other,'' the Agencies now have to rely on the current, unstructured Schedule H Line 4i Schedules of Assets, which might not specifically indicate the necessary details, or the Agencies would need to contact the filer for the information. The types of alternative and hard-to-value assets that might be reported in ''Other'' include: Options, index futures, state and municipal securities, hedge funds, and private equity. Some of these asset types can be fairly complex and merit more rather than less transparency in order to determine the overall financial health of the plan. The inability to distinguish these types of assets on the Form 5500 Annual Return/Report reduces the form's usefulness for policy analysis and research as well for monitoring plans for enforcement purposes.

A recent GAO report stated, for example, that, ''while hedge funds and private equity have very different risk, return, and disclosure considerations from state and municipal securities, all of these investments could be included in the ''other plan asset'' category.''[17] GAO also noted that the plan asset categories on the Schedule H are not representative of current plan investments, and provide little insight into the investments themselves, the level of associated risk, or structures of the investments.[18] The DOL–OIG also recommended that the Agencies revise the Form 5500 Annual Return/Report to improve reporting of hard-to-value assets and alternative investments.[19] Based on their own assessment and experience in research and enforcement and the use of the Form 5500 Annual Return/Report to support these critical agency functions and responsibilities, as well as in response to these recommendations, as discussed in detail earlier in this document, the Agencies are proposing to make changes to the Schedule H balance sheet and income statement.

Modernizing the Schedule H, Line 4i Schedules of Assets: As discussed in detail in the Notice of Proposed Forms Revisions published simultaneously with this document, the Agencies are proposing structural, data element and instruction changes to the current Schedule H, Line 4i(1) Schedule of Assets Held for Investment and Line 4i(2) Schedule of Assets Acquired and Disposed of Within Year. These schedules are filed by plans required to file the Schedule H and by certain DFEs. The Schedules of Assets are a central element of the financial disclosure structure of ERISA. They are the only place on the Form 5500 Annual Return/Report where plans are required to list individual plan investments identified by major characteristics, such as issue, maturity date, interest rate, cost and current value. As such, they are the only part of the Form 5500 Annual Return/Report that can be used to evaluate the year-to-year performance, liquidity, and risk characteristics of a plan's individual investments.

The current reported information, however, suffers from several shortcomings. First, this information is not reported in a data-capturable format. Only an image or picture of the attachments that are currently filed as non-standard attachments to filers' electronic Form 5500 Annual Return/Report filings is available through the EFAST2 public disclosure function. Second, the Line 4i Schedules of Assets are not always found in the same place in each annual return/report. For example, the Line 4i Schedules of Assets are often incorporated in the larger audit report of the plan's IQPA that itself is filed as a nonstandard attachment to the Form 5500 Annual Return/Report. Third, the schedules do not require a standardized method for identifying and describing assets on the Line 4i Schedules. Therefore, under the current reporting rules, the same stock or mutual fund may be identified with various different names or abbreviations.

The creation of more detailed and structured Schedules of Assets is a specific recommendation of the DOL–OIG and the GAO.[20] The proposed changes to the Schedules of Assets are designed to remedy the shortcomings described above. In addition, data capturability of the Line 4i Schedules of Assets will make it much easier and more efficient to monitor plan holdings as computer programs can read and analyze the data much more efficiently. It will allow the Agencies and the interested public to monitor a larger number of pension plans and their asset allocations. The existence of a group of private companies that are transforming the Line 4i Schedule of Assets Held for Investment of the larger pension plans into data-capturable information and using it to compare plan investment menus and investment allocations is a clear indication that plans sponsors and their service providers also are interested in having access to these data. For example, one of these companies sent a letter to DOL stating that they believe that the information on the Form 5500 Annual Return/Report is very useful in ''helping the agency understand the performance and design of retirement plans in the market place'' and that the data availability fosters ''third party data collection and evaluation efforts that in turn help protect retirement plan participants."[21] Plan sponsors can use this information to see how their investment menus compare to similarly situated plans and service providers often use this information to identify plans with underperforming investments in order to attract new business. This can lead to more competition and improved plan performance, which will ultimately benefit participants.

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[17] *GAO, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 12.

[18] *Id.* at 11–12.

[19] *EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-To-Value Alternative Investments,* at 4, 18, and 19.

[20] *See EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments, at 17; Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37.

Changes to DFE Reporting: Under the current reporting rules, DFEs are permitted, or in some cases required, to file their own Form 5500 Annual Return/Report. Generally, pension plans that invest in DFEs only are required to report their interest in the DFE but do not have to report detailed information regarding the underlying investments in the DFE. Such plans are required to file a Schedule D on which the plans identify each DFE in which they invest and the year-end values of the plans' interests. Although DFEs file their own Form 5500 Annual Return/Report, only Master Trust Investment Accounts (MTIAs) and entities meeting the conditions of DOL regulation 29 CFR 103–12 (103–12 IEs) are required to include as part of their own Form 5500 Annual Return/Report, detailed asset holdings on the Schedule H, Line 4i Schedules of Assets. Insurance company pooled separate accounts (PSAs) and bank common/collective trusts (CCTs), which together account for 32 percent of large plans' reported DFE holdings, do not report such information, nor are the investing plans required to report it, although the information is required by regulation to be provided by PSAs and CCTs to investing plans on an annual basis.

The Agencies have encountered, and researchers have reported to the DOL,[22] difficulties matching plans' investments in DFEs reported by investing plans and DFEs in which the plans and other DFEs are participating. Some of this stems from incomplete, unreliable, or inconsistent data on Schedule D filings. For example, for 2013, about 57 percent of plans and 17 percent of DFEs that filed a Schedule D and reported non-zero amounts of interest in DFEs on Schedule H have at least one discrepancy in reporting of more than $1,000 between the value of the investment in a DFE on their Schedule D and their Schedule H. There might be some legitimate reasons for these discrepancies, *e.g.* different plan year dates, but these discrepancies make it difficult to verify filing accuracy. Another more troubling issue is that there are more than 7,000 plan filings for 2013 that report investments in DFEs that cannot be directly linked to any applicable DFE filings. This problem primarily involves CCTs and PSAs. Investments in these unlinked DFEs account for more than $382 billion in assets. A serious consequence of not being able to link these plan filings and assets to DFE filings is that the Agencies and participants do not get information on their plan investments and thus are not able to monitor these investments.

GAO has recommended that the Agencies take steps to address the problem of incomplete or inaccurate matching between plan and DFE filings.[23] Therefore, as discussed in detail earlier in this document, the Agencies are proposing to revise the reporting structure of both Schedule H and the Line 4i Schedules of Assets, with corresponding changes to Schedule D, that are intended to ensure that the Agencies, plan fiduciaries, plan service providers, and other users of data have the tools to create a more complete picture of plans' investment in pooled investment vehicles.

Changes to Financial Information Reporting for Small Plans: Small pension plans that are invested in "eligible" plan assets and otherwise meet certain requirements are eligible to file Form 5500–SF, which was established in part to comply with provisions of the PPA requiring a simplified form of reporting for plans with fewer than 25 participants.[24] Currently, the Form 5500–SF does not require filers to breakout assets on the balance sheet into specific categories. Small plans that are not eligible to file the Form 5500–SF because they are invested in hard-to-value and alternative investments currently file Schedule I, but the Schedule I does not require small plan filers to provide detailed plan asset information and does not provide significantly more useful financial information than the Form 5500–SF with respect to alternative and hard-to-value assets.

The lack of specific questions on the investment activity of small pension plans, which comprise over 80 percent of filers, impairs the usefulness of the Form 5500 Annual Return/Report as a tool to obtain a meaningful picture of small plan investments, especially investments in hard-to-value and alternative investments. As the GAO has noted, the limited financial information provided on the Schedule I creates a challenge for participants, beneficiaries, oversight agencies, researchers, and other users of the Form 5500 Annual Return/Report or Form 5500 Annual Return/Report data.[25] Therefore, as discussed in detail in the Notice of Proposed Forms Revisions published today, under the proposal, Form 5500–SF filers would be required to provide a modest additional breakout of plan investments on the balance sheet. The proposal also would eliminate the Schedule I for small plans that are not eligible to file the Form 5500–SF, predominantly because they are invested in hard-to-value and alternative investments, including employer securities. Under the proposal, such plans instead would be required to complete Schedule H and the Line 4i Schedules of Assets. These changes are designed to ensure that the Agencies are able to collect critical information regarding small plan investments in hard-to-value and alternative investments.

Although the proposed elimination of Schedule I and the addition of basic investment category information to the Form 5500–SF balance sheet would result in additional reporting for those small plans invested in hard-to-value and alternative investments, those small plans with simple investment portfolios would not see a significant increase in their annual reporting burden. In light of changes in the financial environment and increasing concern about investments in hard-to-value assets and alternative investments, however, the Agencies believe that requiring the more detailed financial information regarding hard-to-value investments on the Schedule H is important for regulatory, enforcement, and disclosure purposes for those small plans with more complex portfolios that include hard-to-value or alternative investments. The inherent increased risk posed by hard-to-value or alternative investments affects participants in small plans as well as large plans, but without these proposed revisions, the participants in small plans are left without the protection afforded participants in large plans that comes from the reporting that large plans are already required to do. Although such small plans would be required to complete the Schedule H instead of the Schedule I, including the Schedule H Line 4i(1) and 4i(2) Schedules of Assets, eligible small plans, as under the current rules, would still be eligible for a waiver of the annual examination and report of an IQPA under 29 CFR 2520.104–46, and the number count required to determine eligibility would be changed from the number of participants at the beginning of the plan year to the number of participants with account balances at the beginning of the plan year.

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[21] See August 23, 2010 Comment Letter from Ryan Alfred, President, BrightScope, Inc. Re: Proposed Extension of Information Collection, Form 5500 *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201009-1210-002*).

[22] See "Invisible Pension Investments," Peter J. Wiedenbeck, Rachael K. Hinkle & Andrew D. Martin (*http://sites.lsa.umich.edu/admart/wp-content/uploads/sites/127/2014/08/vatr13.pdf*).

[23] *See,* GAO *Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500,* at 14–15.

[24] See section 1103(b) of the Pension Protection Act of 1996, Public Law 109–280, 120 Stat. 780 (2006).

[25] GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 18.

(2) *Updating fee and expense information on plan service providers with a focus on harmonizing annual reporting requirements on Schedule C with DOL's final disclosure requirements at 29 CFR 2550.408b–2.* The current rules for reporting indirect compensation on the Schedule C as part of the Form 5500 Annual Return/Report, including the limited reporting option for "eligible indirect compensation," were implemented starting with the 2009 forms.[26] Those changes were part of a three-pronged regulatory initiative that included the DOL's regulations under 29 CFR 2550.408b–2 and participant-level disclosure regulations under 29 CFR 2550.404a–5. At the time the 2009 Schedule C rules were finalized, neither the ERISA section 408b–2 regulation nor the ERISA section 404a–5 regulation had been promulgated. Some elements of the 2009 Schedule C, for example, the eligible indirect compensation provisions, were adopted in light of the fact that it was not certain at the time what the ERISA section 408b–2 final rule would require. Those provisions were also meant to respond to concerns from the regulated community, especially large plan service providers, about having to create two different record-keeping systems to meet the various requirements of the Form 5500 Annual Return/Report and disclosures required under 408b–2 should the later promulgated provisions differ from the Form 5500 reporting requirements on indirect compensation.

Now that EBSA has promulgated the ERISA sections 408b–2 and 404a–5 final regulations, there is a need to harmonize fee reporting under the Schedule C and ERISA section 408b–2 regulations to: (1) Make it easier to understand the disclosure and reporting rules regarding indirect compensation; (2) improve quality of data by minimizing any filer confusion that might result from differences in the two requirements and having all the compensation required to be disclosed to be reported on the Schedule C; (3) reduce burden by synchronizing the record-keeping that would be required for ERISA section 408b–2 regulations before-the-fact disclosure with Schedule C's after-the-fact reporting; and (4) make the information easier to understand for end users of the forms by bringing consistency between the service provider fees disclosed to the plan fiduciaries and the service provider fees reported to the Agencies and made public. In this regard, a recent GAO report stated that some filers advised that there was confusion over what Schedule C requires to be reported, including in comparison to what is required under the ERISA section 408b–2 regulations disclosure scheme.[27] Therefore, as discussed in detail earlier in this document, the Agencies are proposing various changes to the Schedule C to better harmonize it with the disclosure requirements under the final ERISA section 408b–2 regulation. Among other changes, the Agencies are proposing to eliminate the concept of "eligible indirect compensation" on Schedule C in part because "eligible indirect compensation" was created prior to the finalization of ERISA section 408b–2 rules to address concerns about possible future inconsistencies that are no longer applicable. Instead of being able to rely on the construct of "eligible indirect compensation" to report only the name of the person providing the disclosures to the plan administrator, the proposal would require filers to report all types of compensation for ERISA section 408b–2 "covered" service providers. This change will also help address concerns raised by other data sources on service provider compensation about the completeness of Schedule C compensation data. A recent survey by Deloitte Consulting LLP for the Investment Company Institute reported fees paid by 401(k) plans that greatly exceeded fees reported on the Schedule C at every asset level.[28]

The proposed forms revisions, and implementing DOL regulations, would also require small pension plans that are not eligible to file the Form 5500–SF and welfare plans that are funded with a trust with fewer than 100 participants to file the Schedule C. Currently, only large pension plans and large welfare plans that are not unfunded or insured (*e.g.,* funded using a trust) must file the Schedule C, thus excluding almost 90 percent of current pension plan filers and over 80 percent of current welfare plan filers from having to disclose service provider fees. The DOL recognizes the burdens small plans face in complying with reporting obligations, but must weigh them against the market efficiencies that can be gained through improved transparency and fee disclosure. The DOL therefore proposes to require small pension plans to file Schedule C only if they do not meet the eligibility conditions for filing the Form 5500–SF, which predominantly are those pension plans that are invested in alternative or hard-to-value assets. The DOL proposes to require welfare plans that offer group health benefits with fewer than 100 participants to file Schedule C only if they are not unfunded or insured (*e.g.,* funded with a trust), because those plans are most likely to experience financial difficulties. Defined contribution pension plan Form 5500–SF filers, as well as defined contribution pension plan Form 5500 Annual Return/Report filers required to complete the Schedule H, would also have to attach the comparison chart that is required to be furnished to participants under the DOL's regulation at 29 CFR 2550.404a–5. Although the comparison chart would not be attached in a "structured" format, it would provide, with a minimal burden increase, a picture of the investment earnings and fees for defined contribution pension plans, which constitute the majority of small plan filers.

Requiring those small pension plans that are not eligible to file the Form 5500–SF and welfare plans that include group health benefits with fewer than 100 participants that are not unfunded or insured (*e.g.,* funded with a trust) to complete the Schedule C as part of their Form 5500 Annual Return/Report filing, and requiring Form 5500–SF defined contribution pension plan filers to include the 404a–5 comparison chart should address some of the GAO's concerns that service provider fee information is incomplete because plans with fewer than 100 participants are not currently required to file information about indirect compensation received by the plans' service providers.[29] Both the proposed Schedule C information for small plans not eligible to file the Form 5500–SF and the 404a–5 information would also enable sponsors of small plans to more easily compare fee information between their plans and increase competition for these services.

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[26] *See* 72 FR 74731 (Nov. 16, 2007).

[27] *See* GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 22.

[28] Deloitte Consulting LLP (2014, August). *Inside the Structure of Defined Contribution/401(k) Plan Fees, 2013: A Study Assessing the Mechanics of the 'all-in' Fee.* (Available at *https://www.ici.org/pdf/rpt_14_dc_401k_fee_study.pdf*).

[29] *See* GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 25.

In addition, financial information reporting could be better aligned with recently adopted disclosure rules to ensure that all fees are reported by the plans.[30]

(3) *Enhancing usability of data filed on the annual return/report.*

E-filing, as well as advances in information technology, have changed both the regulated community's and government's ability to use the Form 5500 Annual Return/Report data. The government can now provide the data in a much more timely and comprehensive manner. As a result, the Form 5500 Annual Return/Report data sets are posted on the Internet, updated monthly, and the images of the individual filings and attachments are made available at no cost to the requester.[31] This has allowed the public as well as the Agencies to monitor plan investments and trends more efficiently. Several private companies have started to build data sets and applications using the Form 5500 Annual Return/Report data to compare plans and service providers and make these services available to plan sponsors and service providers. These developments can lead to better review of plan investments and increased competition, ultimately benefiting plans and participants.

The usefulness of the Form 5500 Annual Return/Report data for comprehensive plan monitoring is dependent on comparable data being available for all or most plans and on the data being available in data-capturable formats. The current financial reporting structures and requirements, however, do not allow the data to be utilized to the fullest extent. As stated above, the Schedule H Line 4i, Schedules of Assets, and the Line 4j, Schedule of Reportable Transactions, as well as other attachments to various schedules (including Schedules MB and SB) are not filed in a standardized electronic format and therefore cannot be searched and analyzed electronically. As a result, the Agencies, other governmental users, including policymakers, and the public have difficulty accessing and making most effective use of key information about pension plan investments.

The proposed requirement for filers to complete a standardized Schedule H Line 4i(1), Schedule of Assets Held for Investment and Line 4i(2) Schedule of Assets Disposed of by End of Plan Year, in a data-capturable format would address some of the critical gaps in available data on pension plan investing, which accounts for over $7.87 trillion of United States savings. The Agencies' proposal to standardize the Schedule H, Line 4i Schedules of Investments also is responsive to the DOL–OIG's recommendation that the Agencies create a searchable reporting format for the Schedule H, Line 4i Schedules of Assets and otherwise increase the accessibility of Form 5500 Annual Return/Report data, particularly information on hard-to value assets and multiple-employer plans.[32]

In addition, this proposal would enhance the usability of data by replacing some of the attachments to the various schedules (including some attachments to Schedules MB and SB)[33] with text fields and having filers report required information in text fields on the face of the forms and on schedules instead of requiring this information to be filed as non-standard attachments. The Agencies took into account the size and complexity of the attachments in determining which should be text fields and which should continue to be attachments, despite the overarching goal of improving data usability for the complete form. In a few cases, especially for detailed actuarial charts, the Agencies determined that requiring standardized attachments or requiring the information to be provided on the face of the forms and schedules could potentially be overly difficult, costly, and complex, and therefore the costs would outweigh the benefits.

Further improvements would be realized from the proposal's requirement that other currently unstructured data or new elements would also be collected as structured data. These include the lists of employers participating in multiple-employer and controlled group plans required to be attached to the Form 5500 Annual Return/Report or Form 5500–SF; the Schedule H, Line 4a Schedule of Delinquent Contributions, and Schedule H, Line 4j Schedule of Reportable Transactions. Having information on delinquent participant contributions and reportable transactions in a "structured" data format would benefit the Agencies by allowing them to identify common types of violations across plans, more quickly respond to any identified issues, and better determine areas where more enforcement and encouragement of compliance and education is needed. Having this data reported in a structured format would also benefit the Agencies and the general public by identifying the universe of employers that participate in multiple-employer and controlled group plans and allowing them to quickly identify plan sponsors that might be affected by adverse market conditions or financial distress.

In summary, advances and developments in technology allow data users to run increasingly sophisticated analyses using the existing Form 5500 Annual Return/Report data, but this is dependent on the availability of these data in a data-capturable format. In addition to researchers interested in studying trends in the employee benefits industry, some companies have reached out to the DOL to request that Form 5500 Annual Return/Report data be collected in a more standardized and consistent format.[34] If these data were available in such a format, researchers, businesses and plan professionals could use the data more efficiently to inform employers and participants on plan structures, operations, and finances. Particularly important in a constrained federal budgetary environment, such data will allow EBSA's enforcement staff to monitor many more employee benefit plans in a systematic and efficient way, producing more fruitful investigations and reducing the inefficiencies and disruptions resulting from unnecessary investigations.

(4) *Requiring reporting by all group health plans covered by Title I of ERISA, including adding a new Schedule J (Group Health Plan Information).*

The enactment of the Affordable Care Act expanded DOL's already growing oversight and regulatory responsibilities with respect to the provision of group health benefits to workers in private sector employer-sponsored group health plans. Generally most welfare plans that include group health benefits that have fewer than 100 participants do not currently file the Form 5500 Annual Return/Report. The current regulation exempts small plans from the requirement to file if they are unfunded, fully insured or combination unfunded/fully insured.[35] The current lack of information collected on the Form 5500

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[30] *Id.* at 50.

[31] Requests for individual filings and attachments are available at no cost to the requester. Bulk requests are available at a minimal cost to the requester. See Guide to Submitting Requests Under the Freedom of Information Act, Section VIII (*http://www.dol.gov/dol/foia/guide6.htm*).

[32] *See EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments,* at 17; *see also GAO Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37; *GAO, Federal Agencies Should Collect Data and Coordinate Oversight of Multiple Employer Plans,* at 30.

[33] The proposed Schedule E, which is based in large part on the Schedule E from 2008 and earlier, would use text fields rather than attachments for some of the previously asked questions.

[34] See August 23, 2010 Comment Letter from BrightScope Re: Proposed Extension of Information Collection, Form 5500 (*http://www.dol.gov/EBSA*).

[35] 29 CFR 2520.104–20.

Annual Return/Report from group health plans diminishes the effectiveness of EBSA's ability to develop health care regulations and complicates the DOL's ability to enforce such regulations and educate plan administrators regarding compliance. Congress, DOL, other governmental users, private researchers, service providers, and other members of the regulated community currently are not able to confidently estimate even the most basic information regarding group health plans, such as the total number of plans that exist or trends that are occurring in the marketplace.

The Affordable Care Act requires the Secretary of Labor to provide Congress with an annual report containing general information on self-insured employee health benefit plans and financial information regarding employers that sponsor such plans. This "Annual Report on Self-Insured Group Health Plans," by the terms of the statute, must use data from the Form 5500 Annual Return/Report. However, as noted above, those small plans that are self-insured and do not use a trust are not required to file the Form 5500 Annual Return/Report with the DOL and the Form 5500 Annual Return/Report only collects limited information from self-insured plans that do file.[36] Also, as the 2015 Report states, "health benefits may be reported together with certain other benefits, such as disability or life insurance benefits, on a single Form 5500 Annual Return/Report. This makes it difficult to distinguish how the different benefits are financed." [37] To fulfill its responsibility to Congress, the DOL has developed an algorithm to try to infer the funding method for plans that file. This methodology, however, may not accurately identify self-insured plans and can only draw information from the Form 5500 Annual Returns/Reports filed, which are a limited sample, and the methodology may compromise the validity of any conclusions drawn from the report and any resulting policy prescriptions.

In addition, sections 2715A and 2717 of the PHS Act, as added by the Affordable Care Act and incorporated into ERISA section 715, include important new reporting requirements for group health plans subject to ERISA. Specifically, section 2715A of the PHS Act incorporates the transparency provisions of section 1311(e)(3) of the Affordable Care Act to require non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to make available to the public, and the government a host of information on health plan enrollment and claims, including: (1) Claims payment policies and procedures; (2) periodic financial disclosures; (3) data on enrollment and disenrollment; (4) data on the number of denied claims; (5) data on rating practices; (6) information on cost-sharing and payments with respect to any out-of-network coverage; (7) information on enrollee and participant rights; and (8) other information as determined by the Secretary. Moreover, section 2717 of the PHS Act generally requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to report annually whether the benefits under the plan: (A) Improve health outcomes through the implementation of activities such as quality reporting, effective case management, care coordination, chronic disease management, and medication and care compliance initiatives, including through the use of the medical homes model as defined for purposes of section 3602 of the Affordable Care Act, for treatment or services under the plan or coverage; (B) implement activities to prevent hospital readmissions through a comprehensive program for hospital discharge that includes patient-centered education and counseling, comprehensive discharge planning, and post discharge reinforcement by an appropriate health care professional; (C) implement activities to improve patient safety and reduce medical errors through the appropriate use of best clinical practices, evidence based medicine, and health information technology under the plan or coverage; and (D) implement wellness and health promotion activities.

These regulations propose conforming amendments in 29 CFR 2590.715–2715A and 29 CFR 2590.715–2717 to clarify that compliance with the reporting requirements in 29 CFR 2520.103–1 (including filing any required schedules to the annual report) by plans subject to ERISA would satisfy the reporting requirements of PHS Act section 2715A and 2717,[38] incorporated in ERISA through ERISA section 715(a)(1).[39] As explained in FAQs issued August 11, 2015,[40] HHS proposed an information collection for public comment in connection with the transparency provisions of section 1311(e)(3) of the Affordable Care Act. The proposed data collection would collect certain information from Qualified Health Plan (QHP) issuers in Federally-facilitated Exchanges and State-based Exchanges using the federal eligibility and enrollment platform. The HHS proposal explained that other reporting requirements would be proposed at a later time, through a separate rulemaking with respect to non-Exchange coverage, including those that extend to health insurance issuers offering non-grandfathered group and individual health insurance coverage outside of Exchanges and non-grandfathered group health plans (including large group and self-insured health plans).

This rulemaking proposes transparency and quality reporting for non-grandfathered group health plans under PHS Act sections 2715A and 2717, as incorporated in ERISA. It takes into account differences in markets and other relevant factors and reduces unnecessary duplication. The DOL is proposing to collect and provide high-value data to participants, beneficiaries, and regulators, such as information about benefits and plan design characteristics, funding, grandfathered plan status, rebates received by the plan (such as medical loss ratio rebates), service provider information (including information regarding any third party administrators, pharmacy benefit managers, mental health benefit managers, and independent review organizations), information on any stop loss insurance, claims processing and payment information (including number of claims filed, paid, appealed and denied), wellness program information, and other compliance information. The collection of high-value data will lead to greater transparency for consumers and assist in their decision-making process.

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[36] Only a little over 20,000 self-insured and approximately 4,000 mixed self-insured health plans file annually with the DOL under the current reporting scheme. See "Report to Congress: Annual Report on Self-Insured Group Health Plans," March 2015, page iii (available at *http://www.dol.gov/ebsa/pdf/ACAReportToCongress2015.pdf*).

[37] Id. at v.

[38] The Treasury Department and the IRS intend to publish proposed regulations in 26 CFR 54.9815–2715A and 54.9815–2717 clarifying that group health plans required to file an annual report pursuant to section 104 of ERISA that comply with the reporting requirements in 29 CFR 2520.103–1 (including filing any required schedules to the annual report) would satisfy the reporting requirements of sections 2715A and 2717 of the PHS Act, as incorporated in the Code. Group health plans that are not required to file an annual report pursuant to section 104 of ERISA but that are subject to sections 2715A and 2717 of the PHS Act as incorporated in the Code, will not be required to do any reporting to comply with sections 2715A and 2717 of the PHS Act, as incorporated in the Code, unless and until the Treasury Department and the IRS issue subsequent further guidance or rulemaking regarding any such reporting by such plans.

[39] Nonfederal governmental plans (as defined in PHS Act section 2791(d)(8)(C)) and health insurance issuers (as defined in PHS Act section 2791(b)(2) and ERISA section 733(b)(2)) are not required to file annual reports pursuant to ERISA section 103. Accordingly, any reporting required of such plans and issuers to satisfy PHS Act sections 2715A and 2717 will be addressed separately by HHS in future rulemakings and/or guidance.

[40] *See* FAQs about Affordable Care Act Implementation (Part XXVIII), available at *www.dol.gov/ebsa/faqs/faq-aca28.html* and *www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs/Downloads/ACA-FAQ-Part-XXVIII-transparency-reporting-final-8-11-15.pdf.*

As discussed in detail in the Notice of Proposed Form Revision, the proposal would make significant changes to group health plan reporting. First, the proposal would add a new Schedule J (Group Health Plan Information). Plans that provide group health benefits that have 100 or more participants, all of which are currently required to file a Form 5500 Annual Return/Report, would have to include the new Schedule J in their annual report, with the remaining reporting requirements generally unchanged, except as proposed to be changed for all filers. Plans that provide group health benefits with fewer than 100 participants that are funded using a trust would generally be required to report the same information as plans that provide group health benefits with 100 or more participants that are funded using a trust; they would no longer be permitted to file the Form 5500–SF. Although this would require such plans to complete the Schedule C and the Schedule H, for plans with simple investments, there should only be a modest burden increase over completing the Form 5500–SF. Small welfare plans funded with a trust that are invested in assets that are not "eligible plan assets" for purposes of Form 5500–SF filing, are already required to file the Form 5500 Annual Return/Report, along with the Schedule I, and if applicable, Schedule A.

Group health plans that have fewer than 100 participants currently exempt from filing an annual report under 29 CFR 2520.104–20 because they are completely unfunded or combination unfunded/fully insured now would be required to file a Form 5500, a Schedule J, and, if applicable, a Schedule A. Plans that are unfunded pay some or all of their benefits out of the plan sponsors' general assets, which exempts them from state insurance regulation, making the DOL their sole regulatory agency. Because such small plans are not currently required to file the Form 5500 Annual Return/Report, there is no comprehensive and direct source of data about the number and characteristics of these plans. Further, because these plans are small, they are more susceptible to financial difficulties. Because of these concerns, the DOL believes that it is important to have more detailed benefit, financial, and compliance information for "unfunded" plans that are self-insured or partially self-insured than for those small plans that are fully insured. These plans would be required under the proposal to file the complete Form 5500 and Schedule J and, if applicable, Schedule A.

Plans that provide group health benefits that have fewer than 100 participants that are fully insured would be required to answer only limited questions on both the Form 5500 and Schedule J, and would not be required to file any other schedules or attachments. Collecting this limited data on fully insured plans providing group health benefits that have fewer than 100 participants would give the DOL basic information to identify health insurance plans they regulate and allow them to better monitor plan trends and activities, but minimize the reporting burden from more detailed reporting that is more generally required on the Form 5500, Schedule A, Schedule J, and any other applicable schedules that comprise the Form 5500 Annual Return/Report.

(5) *Improving compliance under ERISA and the Code through selected new questions regarding plan operations, service provider relationships, and financial management of the plan.*

In an era of limited financial resources, the Agencies must pursue new and creative ways to maximize the efficacy of their enforcement budgets. Improving compliance under ERISA and the Code reduces the need for costly enforcement actions. Focusing filer compliance through selected new questions regarding plan operations, service provider relationships, and financial management of the plan under ERISA and the Code can also have the effect of allowing the Agencies' enforcement staff to work more efficiently, and therefore better protect plan participants and beneficiaries.

Analysis of Benefits and Costs

The DOL believes that the benefits to be derived from this proposal, including the amendments to the reporting regulations and the forms revisions, would justify their costs. The DOL further believes that these revisions to the existing reporting requirements will enhance protection of ERISA rights by improving the effectiveness of enforcement actions and by improving the quality of data used for research and policymaking purposes. The DOL conducted a detailed assessment of the costs and benefits of these changes.

Benefits

As stated previously, the proposal pursues five main objectives. The various changes to the forms, schedules, instructions, and DOL regulatory exemptions and requirements are together intended to integrate these various objectives, and all of the other goals together are proposed with the intention of supporting the move towards fuller transparency and data mineability overall. Fuller transparency could increase participant trust levels, which could encourage pension plan participants to increase their retirement savings and welfare plan participants to use benefits when needed, resulting in strengthened retirement security and improved public health. The benefits of each of the five main objectives are discussed below.

(1) *Modernizing financial information.*

As stated previously, the financial information, particularly the asset/liability statement, contained in the current Schedule H (Large Plan Financial Information), Schedule I (Small Plan Financial Information), as well as the more recently established Form 5500–SF, is based on data elements that have remained largely unchanged since the Form 5500 Annual Return/Report was established in 1975. Many investments in alternative and hard-to-value assets and held in collective investment funds do not fit squarely into any of the existing reporting categories on Schedule H. As discussed previously, the GAO has expressed concerns that many investments with widely varying risk, return, and disclosure considerations are often reported in the catch-all "other plan asset" category.[41] GAO also noted that the plan asset categories on the Schedule H are not representative of current plan investments, and provide little insight into the investments themselves, the level of associated risk, or structures of the investments.[42] The DOL–OIG also recommended that the Agencies revise the Form 5500 Annual Return/Report to improve reporting of hard-to-value assets and alternative investments.[43]

As part of their overall evaluation of how best to restructure financial reporting to maximize usable data while limiting burden increases, the Agencies also concluded that research and enforcement efforts could be enhanced by updating the asset reporting categories and by standardizing Schedule H Line 4i attachments. Accordingly, the changes the Agencies are proposing to make to the asset breakouts on the balance sheet and income statement components of Schedule H would make the asset reporting more consistent with the current financial marketplace and enable the Agencies, plan sponsors, and participants and beneficiaries to develop a more accurate and detailed picture of the types of assets held by plans, including hard-to-value assets and alternative investments and investment held through collective investment vehicles. The proposed changes take into account many of the sophisticated and complex investments that do not fit neatly into any of the existing program categories, which would lead to consistent reporting by filers and more transparency by limiting the consolidation of many diverse investments into the catch-all "Other" category on the balance sheet on the Schedule H.

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[41] GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 12.

[42] *Id.* at 11–12.

[43] *EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-To-Value Alternative Investments, Department of Labor Office of Inspector General Report Number: 09–13–001–12–121* at 4, 18, and 19.

The Agencies also opted to revise the Schedule H Line 4i Schedules of Assets attachment into two, distinct structured data attachments. Doing so will produce more consistent data, reduce confusion over the proper format to provide required data, and enable data mineability. Moreover, as discussed in detail earlier in this document and the Notice of Proposed Forms Revisions published simultaneously, the structural, data element and instruction changes to the Schedule H, Line 4i Schedule of Assets Held for Investment the Agencies are proposing will allow the Form 5500 Annual Return/Report to be better used as a tool to evaluate the year-to-year performance of a plan's individual investments. The creation of more detailed and structured Schedule H, Line 4i Schedules of Assets is a specific recommendation of the DOL–OIG and the GAO.[44] The proposed changes to the Schedule H Line 4i Schedules of Assets, in addition to better meeting the needs of the Agencies, other government users, and other end users of the data, should also serve to address the shortcomings identified in these reports.

The proposed changes made to DFE reporting would ensure that the Agencies, plan fiduciaries, plan service providers, and other users of data have the tools to create a more complete picture of plans' investments in pooled investment vehicles. Similarly, the proposed changes to the financial information reported by small plans would improve the utility of the Form 5500 Annual Return/Report as a tool to obtain a meaningful picture of small plan investments in hard-to-value and alternative investments as suggested by GAO and other government oversight and advisory bodies.[45]

Although these changes would result in additional reporting for certain small plans, the Agencies do not expect that small plans with simple investment portfolios would experience a significant increase in their annual reporting burden. Small plans with complex portfolios that include hard-to-value or alternative investments should have more transparent financial statements which may require somewhat more complex financial reporting obligations. In light of changes in the financial environment and increasing concern about investments in hard-to-value assets and alternative investments, the Agencies believe that requiring separate financial information regarding hard-to-value investments is important for regulatory, enforcement, and disclosure purposes.[46]

A major overriding objective of these proposed forms revisions is to modernize the Form 5500 Annual Return/Report information collection so that the presentation of plan trust financial and balance sheet information is a more transparent and detailed reflection of the investment portfolios and asset management practices of employee benefit plans. The basic objective of general financial reporting is to provide information about the reporting entity for the Agencies' enforcement, research, and policy formulation programs, for other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies; and for plan participants and beneficiaries and the general public in monitoring employee benefit plans. Modernizing the financial reporting instruments will bring greater transparency to plan transactions, which will enhance the efficiency of the Agencies' enforcement efforts. Specifically, the Agencies will be better able to target their enforcement efforts, which will reduce the number of investigations involving plans that are not engaging in problematic activities.

Additionally, ERISA Section 513(a) authorizes and directs the Secretary of Labor and EBSA to conduct a robust research program on employee benefits. The Form 5500 Annual Return/Report is one of the leading sources of data used in this research program. Modernizing the financial information reported on the Form 5500 Annual Return/Report will improve the quality of the research conducted by internal and external researchers. This improved research will, in turn, improve the quality of policy decisions made by DOL and other governmental policymakers that rely on the Form 5500 Annual Return/Report data.

(2) *Updating fee and expense information on plan service providers with a focus on harmonizing annual reporting requirements on Schedule C with DOL's final disclosure requirements at 29 CFR 2550.408b–2.*

As previously discussed, the proposal would harmonize the Schedule C rules with the DOL's regulations at 29 CFR 2550.408b–2. The Agencies believe that requiring reporting of all indirect compensation (rather than continuing the exemption from reporting for "eligible indirect compensation"), but limiting indirect compensation reporting to the service providers and types of compensation that are required to be disclosed under the ERISA section 408b–2 regulation will provide a particular benefit to plan record keepers. The information required to be reported would be an after the fact reporting of fees that should have been disclosed in advance under the ERISA section 408b–2 regulation. Because the ERISA section 408b–2 regulation requires covered service providers to provide plan administrators the information they need to satisfy their Form 5500 Annual Return/Report obligations with respect to compensation information, the additional burden should be limited to entering the data on the Form 5500 Annual Return/Report.[47]

Currently, given that some significant component of indirect compensation is not reported because it is permitted to be treated as "eligible indirect compensation," and the fact that some filers report formulas instead of dollar amounts, the Agencies and public only have limited information regarding the total compensation that service providers receive and that affects plans' finances and potentially involves conflicts of interests among service providers. Almost 90 percent of 2013

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[44] *See EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments,* at 17; *Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37.

[45] Id.

[46] Although such small plans would be required to complete the Schedule H instead of the Schedule I, including the Schedule H Line 4i(1) and 4i(2) Schedules of Assets, eligible small plans, as they can under the current rules, would still be eligible for a waiver of the annual examination and report of an IQPA under 29 CFR 2520.104–46.

[47] See 29 CFR 2550.408b–2(c)(iv).

Schedule C filers reported at least one service provider receiving some amount of eligible indirect compensation, and nearly 70 percent of 2013 Schedule C filers reported at least one provider receiving *only* eligible indirect compensation. Filers identifying at least one service provider as receiving some amount of eligible indirect compensation on their Schedules C, according to the overall Form 5500 data, report holding roughly two-thirds of all pension assets. Thus, the limited "eligible indirect compensation" reporting impacts the data relating to service provider fees in connection with the servicing and management of a significant amount of assets. In addition, analysis of these data also indicates that almost 50 percent of Schedule C filers report at least one service provider who provides a formula instead of an explicit or estimated amount of compensation. These filers report holding almost 40 percent of all pension assets. Providing only a formula without an actual or estimated dollar amount of the compensation makes it very hard for plan sponsors or participants to identify the exact amount of compensation.

The proposed rules and the subsequent reported information would make it possible to get a much better understanding on the fees that were transferred between service providers in the form of indirect compensation, therefore allowing plan sponsors and participants to assess the fees that they are incurring. The Agencies anticipate that the increased transparency under the proposal would likely lead to increased competition in the service provider market.

Aligning the Schedule C with ERISA section 408b–2 disclosure should benefit the regulated community by clarifying and streamlining the information reported on the Schedule C, which should reduce filer confusion, and in turn reduce any filer burden caused by the confusion. The updated service provider information will also improve targeting in the Agencies' enforcement efforts, be a resource for independent researchers to identify fee trends, and help policymakers identify opportunities to make regulatory adjustments.

The proposed rule would also require small pension plans that are not eligible to file the Form 5500–SF and welfare plans that provide group health benefits that are not unfunded or insured (*e.g.*, funded using a trust) and have fewer than 100 participants to file Schedule C. Currently, only large plans (for welfare plans, only large plans that are not unfunded or insured) must file a Schedule C, thus a large portion of plans do not disclose service provider compensation, except total administrative expenses, which includes direct compensation to service providers.[48] The Agencies believe that the ideal solution for enforcement, research, policymaking, and participant monitoring purposes would be for all indirect compensation to be required to be reported, but recognize the burdens small plans face in complying with disclosure obligations. The Agencies therefore propose to require small pension plans to file Schedule C only if they do not meet the eligibility conditions for filing the Form 5500–SF, which generally would be those pension plans that are invested in alternative or hard-to-value assets. The Agencies propose to require welfare plans that offer group health benefits with fewer than 100 participants to file Schedule C only if they are funded using a trust. This makes the reporting requirements consistent with those for other welfare plans that are funded using a trust that are required to file the Form 5500. Self-insured plans are more susceptible to experience financial difficulties than fully insured plans. Requiring these small plans to file a Schedule C would address some of the GAO's concerns that not all critical information on indirect compensation is being reported to the Agencies.[49]

(3) *Enhancing mineability of the data filed on the Form 5500 Annual Return/Report.*

As stated previously, a key component of the proposal is to make it easier and more efficient to use the data from the Form 5500 Annual Return/Report for research, policy analysis, and enforcement purposes. The primary way the Agencies propose to enhance the mineability of Form 5500 Annual Return/Report data is by structuring and standardizing the questions on the forms and schedules and structuring certain information currently required to be reported in the form of a nonstandard attachment to the filing. This will improve the integrity of the collected data and allow the Agencies and others to compare, aggregate, and analyze these data.

The Agencies have identified a number of areas where the current method of reporting information impedes data usability and are proposing several changes to facilitate the efficient use of Form 5500 Annual Return/Report data. Data from Schedule H Line 4i (Schedule of Assets), for example, is currently not available in a standardized electronic format and would be very useful for monitoring the performance of plan investments. The proposed rules would require the Schedule H Line 4i, Schedules of Assets, to be filed in a standardized electronic format, which will allow them to be searched and matched to performance data through common software programs. As a result, the Agencies and the public would have much less difficulty accessing key information about the plan's investments. Additional improvements in data mineability and plan monitoring also would be realized from the proposal's requirement that other currently unstructured data or new elements also be collected as structured data under the proposal, including the lists of employers participating in multiple-employer and controlled group plans required to be attached to the Form 5500 Annual Return/Report or Form 5500–SF, the Schedule H, Line 4a Schedule of Delinquent Contributions, and Schedule H Line 4j Schedule of Reportable Transactions.

Data mineability also would be improved by the proposal's requirement that some data would be reported as text fields instead of as attachments. This would increase the accessibility of data. Similar to the proposed specific data elements for the Schedule H Line 4i Schedules, which replace a suggested format for an unstructured attachment, the Agencies believe, based on their own use of the data to support the research, policy, and oversight efforts of the Agencies, and input from other end users, that data mineability will be enhanced by requiring the use of text fields on the face of the schedules instead of having information filed as non-standard attachments.

Another limitation on data mineability and usability of the current Form 5500 Annual Return/Report is that actuarial information is reported in the form of PDF attachments to the Schedules MB and SB, rather than on the face of the actuarial schedules. Therefore, as discussed above, the proposal would expand data elements on actuarial schedules including information previously reported on unstructured attachments. If questions are directly answered on structured forms and schedules, like the Form 5500

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[48] "Direct" compensation is included as an administrative expense item on both the Form 5500–SF and on Schedule H, but it is a total and is not linked to payments to specific service provider. Because it is not a "balance sheet" item, indirect compensation is not reported as part of the financial statements.

[49] See GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information* at 25–26 ("Given these various exceptions to fee reporting requirements, Schedule C may not provide participants, the government, or the public with information about a significant portion of plan expenses and limits the ability to identify fees that may be questionable.")

Annual Return/Report and the listed schedules (as opposed to non-standard attachments) the data are "machine-readable" in the 5500 data base, and computer programs can be written to read the data sets created by DOL. This would make more readily searchable and usable actuarial information essential to the Agencies' enforcement efforts and in their ability to target plans with likely compliance issues. Furthermore, the availability of the data would enhance the ability of private-sector auditors using the information to validate a plan actuary's calculations. The data would also provide new opportunities for research. There is no source of system-wide data on defined benefit pension plan participants with age, service, and average benefit levels. The availability of such data would allow for more refined projections of future coverage and benefits adequacy for plan participants and beneficiaries. As more of these data are collected over the years, trends in plan coverages and benefits could more easily be analyzed and identified.

The proposed rules make an additional change to reporting requirements that is expected to make filing some of the plan characteristics easier and more reliable. Instead of having to report all applicable plan characteristic codes under one line item, the proposal would ask for this information grouped by topic. Currently, some filers report an incomplete picture of their plan characteristics. For example, some filers have characteristics that should warrant supplying five or more codes, but instead they only supply two or three. It is expected that the new questions will be easier for filers to respond to and that the data reported will be more accurate.

In summary, these improvements in data mineability will make it more efficient to conduct Form 5500 Annual Return/Report data analysis and to use the data to monitor plans, and identify trends.

(4) *Requiring reporting by all group health plans covered by Title I of ERISA, including adding a new Schedule J (Group Health Plan Information).*

As discussed above, the proposal would eliminate the current exemption from reporting for certain group health plans covered by Title I of ERISA so that all group health plans covered by Title I of ERISA will be required to file a Form 5500 Annual Return/Report. Currently, generally most plans that provide group health benefits with fewer than 100 participants that meet the conditions of existing regulations are exempt from filing the Form 5500 Annual Return/Report, because they are unfunded, fully insured, or a combination of unfunded/fully insured. Requiring such plans to file would fill an information gap, which would allow the DOL to effectively meet its statutory obligation to enforce the ERISA requirements that apply to group health plans. Currently, the DOL must rely on complaints from plan participants as its primary source to uncover ERISA violations in small plans that are exempt from annual reporting. Eliminating this exemption would provide the DOL with the information necessary to be more proactive and systematic in identifying violations and in providing compliance assistance. The DOL would be able to track total health plan counts and coordinate its enforcement efforts relating to plans providing benefits through common issuers. For example, fully-insured plans using the same insurance provider often contain provisions that are similar. By requiring plans providing group health benefits, that are unfunded, fully insured, or combination unfunded/fully insured and have fewer than 100 participants to identify themselves and the insurance carrier through which they are insured, the DOL should be able to better determine which plans might be affected by noncompliant plan provisions. The DOL also could better coordinate its enforcement efforts with affected service providers and other Federal and State agencies.

This information also would enhance the DOL's ability to develop health care regulations, conduct policy analysis and research with respect to participant trends, and comply with the Affordable Care Act requirement to report to Congress annually regarding self-insured plans.

(5) *Improving compliance under ERISA and the Code through selected new questions regarding plan operations, service provider relationships, and financial management of the plan.*

Improving compliance under ERISA and the Code through selected new questions will bring two main benefits. First, these compliance questions will serve as a form of education for plan administrators and a self-compliance check. The Agencies believe that the new compliance questions under the proposal, as is true of the existing compliance questions, would help plan administrators better understand and monitor required plan behavior and would remind plan administrators to comply with requirements under ERISA and the Code, and thus will improve protections for participants and beneficiaries.

Second, these compliance questions will allow the Agencies, with their limited enforcement budgets, to engage in more sophisticated targeting and compliance assistance. Improvements in data management technology now enable the Agencies to create plan risk profiles to improve the effectiveness of investigations. These compliance questions, including questions on audit and oversight requirements, nondiscrimination, administrative expenses, participant contributions, and automatic enrollment, will improve the risk profiles, which will further enable the Agencies to use their enforcement resources in the most efficient way possible.

Costs

The costs for plans to satisfy their annual reporting obligations would increase under these proposed regulations relative to the current regime.[50] As shown in Table 2 below, the aggregate annual cost of such reporting under the current regulations and forms is estimated to be $488.1 million annually, shared across the 816,000 filers subject to the filing requirement. The DOL estimates that the regulations and forms revisions proposed today will impose an annual burden of $817.0 million on 2.97 million filers, for a total increase of $328.8 million annually.

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[50] The DOL believes that the annual cost burden on filers would be higher still in the absence of the proposed regulations enabling use of the Form 5500 Annual Return/Report in lieu of the statutory requirements. Without the Form 5500 Annual Return/Report, filers would not have the benefits of any regulatory exceptions, simplified reporting, or alternative methods of compliance, and standardized and electronic filing methods.

TABLE 2—SUMMARY OF ANNUAL COSTS: CURRENT REQUIREMENTS VS. PROPOSED REQUIREMENTS

	Total annual costs (millions)	Total annual burden hours (thousands)
Current reporting requirements	$488.1	4,378.5
Change due to Revisions	328.8	2,949.0
Proposed Reporting Requirements	817.0	7,327.5

Because this proposal makes substantial changes to the requirements currently in effect, filers also will experience some one-time transition costs. The DOL estimates that plans will require twice as long to supply the new data elements during the first year, relative to subsequent years, and will therefore encounter one-time transition costs of $328.8 million.

The DOL has analyzed the cost impact of the individual revisions. In doing so, the DOL took account of the fact that various types of plans would be affected by more than one revision and that the sequence of multiple revisions would create an interaction in the cumulative burden on those plans. For example, nearly all pension plans that are required to file the Form 5500 and related schedules, including ESOPs, would be affected by the changes to the Schedule H. ESOPs, however, would be affected not only by the proposed Schedule H changes, but also by the proposed restoration of Schedule E. The DOL quantified the individual revisions as described below and shown in Table 3.

(1) *Revised financial reporting on the Schedule H and elimination of the Schedule I.*

Revising the Schedule H, including the revisions to the Schedule H Line 4i Schedules of Assets, and eliminating the Schedule I will increase net costs. The DOL estimates that the net effect of these changes will be to increase the total burden by 535,400 hours. These changes, in conjunction with revisions to the reporting requirements for DFEs, discussed below, will decrease the number of filers reporting on Schedule H and/or Schedule I from 115,100 to 114,600. Applying an hourly labor rate of $114.95 for service providers and $98.25 for plan sponsors, the DOL estimates that this revision will increase the aggregate annual reporting cost by an estimated $57.6 million.[51]

(2) *Required reporting by all group health plans covered by Title I of ERISA, including addition of a new Schedule J (Group Health Plan Information).*

Currently, about 54,000 welfare plans that provide group health benefits file the Form 5500 Annual Return/Report and applicable schedules. Of these 54,000 filers, approximately 48,000 are welfare plans that provide group health benefits with 100 or more participants and the rest are welfare plans that provide group health benefits with fewer than 100 participants. We estimate that this proposed change will increase the number of welfare plan with group health benefit filers to approximately 2.2 million. Of these 2.2 million welfare plans with group health benefits, 1.9 million welfare plans with group health benefits are expected to be fully insured plans with fewer than 100 participants, while 289,000 welfare plans with group health benefits are expected to be unfunded, combination unfunded/fully insured, or funded with a trust with fewer than 100 participants, and approximately 48,000 welfare plans with group health benefits are expected to have 100 or more participants.

The 1.9 million plans that provide group health benefits, have fewer than 100 participants, and are fully insured would be required to complete lines 1–5 on Form 5500 and lines 1–8 on Schedule J. The 289,000 plans that provide group health benefits, have fewer than 100 participants, and are unfunded, combination unfunded/fully insured, or funded with a trust would be required to file a Form 5500, Schedule J, and Schedule A, if applicable, and if they were already required to file a Form 5500 Annual Return/Report (*i.e.,* funded with a trust), they would be required to attach any other applicable schedules. The 48,000 plans that provide group health benefits and have 100 or more participants that already are required to file a Form 5500 Annual Return/Report would be required to attach a Schedule J in addition to any other forms and schedules that they are currently required to submit.

The DOL estimates that requiring plans that provide group health benefits, have fewer than 100 participants, and are fully insured to complete only lines 1–5 of the Form 5500 and lines 1–8 of the Schedule J will increase total burden by 623,000 hours and increase the aggregate annual reporting cost by $69.6 million. Requiring all other plans that provide group health benefits and have fewer than 100 participants (unfunded, combination unfunded/fully insured, or funded with a trust) and all plans that provide group health benefits and have 100 or more participants to file a Form 5500 Annual Return/Report, Schedule J, and any other required schedules and attachments will increase the total burden by 349,100 hours for the Form 5500 Annual Return/Report and 1.2 million hours for the Schedule J. The aggregate annual reporting cost associated with requiring all other group health plans with fewer than 100 participants (unfunded, combination unfunded/fully insured, or funded with a trust) and all group health plans with 100 or more participants to file a Form 5500 Annual Return/Report, Schedule J, and any other required schedules and attachments is $39.0 million for the Form 5500 Annual Return/Report and $133.0 million for the Schedule J.

Based on the foregoing, the DOL estimates that, in total, group health plan annual reporting burden will increase by approximately 2.2 million hours and the aggregate annual reporting cost will increase by $241.6 million.

(3) *Restored Schedule E.*

Approximately 6,700 employee stock ownership plans (ESOPs) will be subject to increased reporting on the restored Schedule E. As discussed above, the Schedule E is intended to provide increased reporting related to areas of concern specific to ESOPs. The DOL estimates that the restored Schedule E will add approximately 22,000 hours of burden and an additional $2.5 million of aggregate annual reporting cost.

(4) *Revised Schedule C.*

As discussed above, Schedule C revisions are intended to harmonize the Schedule C reporting of indirect compensation with the disclosures required under the DOL's final rules on service provider compensation at 29 CFR 2550.408b–2, expand the Schedule C reporting requirement to all pension plans required to file the Form 5500 regardless of size, expand the Schedule C reporting requirement to welfare plans that offer group health benefits with fewer than 100 participants if they are funded with a trust, clarify the indirect compensation reporting requirements, and improve the information plan officials receive regarding amounts received by plan service providers. The expanded reporting requirements are expected to increase the number of Schedule C filers from approximately 82,400 to approximately 100,200. Reporting burden for Schedule C filers is expected to increase by 116,600 hours, *i.e.* roughly an hour per filer, which will produce an additional $12.9 million of annual aggregate reporting cost. Of this $12.9 million increase, $5.3 million is borne by existing filers and is attributable to eliminating the "eligible indirect compensation" reporting relief;[52] $7.2 million is borne by filers newly required to attach a Schedule C;[53] and $0.4 million is borne by existing filers and is attributable to all other changes to the Schedule C.[54]

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[51] The appropriateness of the labor rates used in the calculations and assumptions are discussed in the Technical Appendix, which can be accessed at the DOL's Web site at *www.dol.gov/ebsa.*

As indicated in the regulatory impact analysis in the final publication of the regulation at 29 CFR 2550.408b–2, the DOL believes that more transparency of service provider compensation serves to discourage harmful conflicts, reduce information gaps, improve fiduciary decision-making about plan services, enhance value for plan participants, and increase the DOL's ability to redress abuses committed by service providers. 77 FR 5632, 5650 (Feb. 3, 2012). As is true with the improved disclosure required under the DOL's regulation at 29 CFR 2550.404a–5, increased transparency and ability to compare fees (and, on the improved balance sheet and schedules of assets) are expected to reduce participants' time otherwise used for searching for fee and other investment information and to produce substantial additional benefits, in the form of improved investment decisions, although the DOL has not been able to quantify this effect. 75 FR 64910, 64928 (Oct. 20, 2010).

(5) *Changes to reporting requirements and methods for direct filing entities (DFEs), added compliance questions, and all other changes.*

As discussed earlier in the preamble, the rule proposes to make several changes to the DFE filing requirements. For example, the Agencies propose eliminating the concept of Master Trust Investment Accounts (MTIA) reporting and require reporting by a master trust instead. The proposal also would change the filing requirements for a CCT or PSA in which the plan invests by requiring the plan to report the interests in the CCT or PSA on the Schedule H balance sheet (Part I, Line 1b) regardless of whether the PSA or CCT in which the plan invests files a Form 5500 Annual Return/Report as a DFE, changing how assets held through DFEs are reported on the proposed Schedule H Line 4i(1) Schedule of Assets Held for Investment, and eliminate the requirement for plans to file the Schedule D, since the DFE information that had been on Schedule D would now be on plans' Schedule H Line 4i(1) Schedule of Assets Held for Investment. The net effect of these changes to DFE reporting is to reduce the number of Schedule D filers from 61,100 to 8,900, with smaller reductions in the filing of other schedules discussed elsewhere. Reporting burden associated with DFEs is expected to fall by 94,200 hours, which will produce a $10.1 million reduction in aggregate reporting cost.

Additionally, the DOL proposes a series of compliance questions primarily on the Form 5500, Form 5500–SF, and Schedule R. Other miscellaneous changes throughout the forms and schedules include requiring new information on employer matching contributions, employee participation rates and plan design for defined contribution plans, and changes to the reporting on Schedule G.

Some of these compliance questions and other miscellaneous changes add burden, while others reduce burden. Together, the DOL estimates that the net effect of these various changes would add approximately 219,300 hours of aggregate reporting burden, which will produce an additional $21.5 million in aggregate reporting cost. In combination with the changes to DFE reporting discussed above, these changes will reduce the aggregate number of forms and schedules filed by 52,500.

Table 3 contains a summary of the changes in costs, expressed both in dollars and in hours, allocated to the changes outlined above and the number of affected filings.

TABLE 3—SUMMARY OF CHANGES TO THE REPORTING REQUIREMENTS

Revisions	Change in costs (millions)	Change in burden hours (thousands)	Number of filers under current requirements (thousands)	Number of filers under proposed requirements (thousands)[55]	Δ Cost per affected filer by proposed requirements
Elimination of Schedule I & Change in Schedule H	$57.6	535.4	115.1	114.6	$502
Schedule C	12.9	116.6	82.4	100.2	128
DFE Reporting Changes (Including changes to Schedule D)	−10.1	−94.2	61.1	8.9	−1,137
Schedule E	2.5	22.0	0.0	6.7	374
Completion of lines 1–5 on Form 5500 and lines 1–8 on Schedule J by fully insured GHPs with fewer than 100 participants	69.6	623.0	0.0	1,869	37
Completion of Form 5500 by GHPs with fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust and GHPs with 100 or more participants	39.0	349.1	54.1	336.9	116
Completion of Schedule J by GHPs with fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust and GHPs with 100 or more participants	133.0	1,179.2	0.0	336.9	395

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[52] As discussed previously, the DOL is eliminating the limited reporting option for "eligible indirect compensation." The DOL believes that many of the costs associated with gathering and organizing data necessary for expanded service provider reporting, to the extent that the information was not already required to be provided to and kept by the plan administrator for "eligible indirect compensation" that did not have to be reported, have already been accounted for as part of the RIA for the ERISA section 408b–2 rule. Therefore, these costs reflect only the incremental increase of reporting service provider compensation to the Agencies. Under the proposal, indirect compensation reporting would be limited to the types of service providers and compensation under ERISA section 408b–2, in contrast to all service providers currently having to report on the Schedule C receipt of indirect compensation.

[53] For new filers, this includes the costs of all other changes to the Schedule C.

[54] Costs may not add up to the total due to rounding.

TABLE 3—SUMMARY OF CHANGES TO THE REPORTING REQUIREMENTS—Continued

Revisions	Change in costs (millions)	Change in burden hours (thousands)	Number of filers under current requirements (thousands)	Number of filers under proposed requirements (thousands)[55]	Δ Cost per affected filer by proposed requirements
All Other Revisions[56]	24.4	217.9	1,076.7	1,024.2	24
Total (Unique Filers)	328.8	2,949.0	816.3	2,967.5	111

The proposal does not otherwise alter reporting costs. With the exception of most welfare plans that provide group health benefits, plans currently exempt from annual reporting requirements (such as certain simplified employee pensions (SEPs) and small unfunded, fully insured, or combination unfunded/fully insured welfare plans that do not provide group health benefits) would remain exempt. Also, plans eligible for limited reporting options (such as certain IRA-based pension plans) would continue to be eligible. The revised Form 5500 Annual Return/Report would retain the structure that is familiar to individual and corporate taxpayers—the form would continue to contain basic identifying information, participant counts, and plan characteristics, along with a checklist of the schedules being filed.

Assumptions, Methodology, and Uncertainty

The cost and burden associated with the annual reporting requirement for any given plan will depend upon the specific information that must be provided, given the plan's characteristics, practices, operations, and other factors. For example, a small, single-employer defined contribution pension plan eligible to file the Form 5500–SF should incur far lower costs than a large, multiemployer defined benefit pension plan that holds multiple insurance contracts, engages in reportable transactions, and has many service providers that each received over $5,000 in compensation. The DOL separately considered the cost to different types of plans in arriving at its aggregate cost estimates. The DOL's basis for these estimates is described below.

Assumptions Underlying this Analysis: The DOL's analysis assumes that all benefits and costs will be realized in the first year of the reporting cycle to which the changes apply and within each year thereafter. This assumption is premised on the requirement that each plan will be required to file the Form 5500 Annual Return/Report. The DOL has used a "status quo" baseline for this analysis, assuming that the world absent the proposed regulations will resemble the present.[57]

Methodology: Mathematica Policy Research, Inc. (MPR) developed the underlying cost data, which has been used by the Agencies in estimating burden related to the Form 5500 Annual Return/Report since 1999. *See* 65 FR 21068, 21077–78 (Apr. 19, 2000); Borden, William S., *Estimates of the Burden for Filing Form 5500: The Change in Burden from the 1997 to the 1999 Forms,* Mathematica Policy Research, submitted to DOL May 25, 1999.[58] The cost information was derived from surveys of filers and their service providers, as modified due to comments, which were used to measure the unit cost burden of providing various types of information. The DOL has adjusted these unit costs since 1999 to account for changes to the forms and schedules and increases in the cost of labor and service providers since MPR developed the initial data.

For this forms revision, the DOL used the adjusted MPR unit cost data for pension and non-health welfare plans. The DOL developed the unit cost data for group health plans using the best available data. To develop unit costs for DFEs, the DOL created weighted averages of the unit costs for plans.

To obtain filer counts for pension plans, non-health welfare plans, and DFEs, the DOL used historical counts of Form 5500 Annual Return/Report filers tabulated by type and reported characteristics. For counts of group health plan filers, the DOL used data from the Medical Expenditure Panel Survey, Insurance Component (MEPS–IC) and Census of Business data.

The MEPS–IC is an annual survey of establishments collected by the Agency for Healthcare Research and Quality (AHRQ) about employer sponsored health insurance. AHRQ uses two sources to draw their data: (1) A random sample, from the Census Bureau, of private-sector business establishments with annual payroll greater than zero; and (2) a list of employers or other insurance providers identified by the Medical Expenditure Panel Survey, Household Component respondents who report having private health insurance. In 2013, approximately 39,000 private-sector establishments were surveyed.

In 2003, DOL began using the MEPS–IC as a basis for estimating the number of health plans. The number of plans was based on the share of the total number of establishments that offer health insurance by size. DOL then attempted to correct for establishments that offer multiple health plans by making a reasonable assumption that the share of establishments that reported that they "offer 2 or more plans" offered two distinct plans. Finally, DOL attempted to control for multiple establishments covered by the same plan sponsor by using the Census of Business ratio of establishment-to-firms and dividing the total number of establishment plans by this ratio to produce an estimate of the number of health "plans" which has been consistently around 2.5 million over the years.

The DOL modeled its approach to calculating burden on the approach used during the 2009 forms revision. Aggregate burden estimates were produced in both revisions by multiplying the unit cost measures by the filer count estimates. The methodology is described in broad terms below.[59]

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[55] The proposed change eliminating the concept of MTIA reporting and requiring reporting by a master trust instead, whose burden change is taken into account in the DFE Reporting Changes row, produces a reduction in the number of schedules included in filings. The change in the number of schedules filed is taken into accounted in the row specific to the schedule affected.

[56] The number of filers in this row exceeds the total number of filers because an individual filer counts more than once when it is affected by more than one revision included in the "All Other Revisions" category.

[57] Further detail can be found in the Technical Appendix, which can be accessed at *www.dol.gov/ebsa.*

[58] The MPR report can be accessed at the DOL's Web site at *www.dol.gov/ebsa.*

[59] Further details about the approach are explained in the Technical Appendix, which can be

To estimate aggregate burdens, types of plans with similar reporting requirements were grouped together in various groups and subgroups. As shown in Table 4 below, calculations of aggregate cost were prepared for each of the various subgroups both under requirements in effect prior to this action and under the forms as revised. Table 4 also shows the number of plans within each subgroup affected by the revisions. The universe of filers was divided into four basic types: Defined benefit pension plans, defined contribution pension plans, welfare plans, and DFEs. For the plans, each of these major plan types was further subdivided into multiemployer and single-employer plans.[60] Since the filing requirements differ substantially for small and large plans, the plan types were also divided by plan size. For large plans (100 or more participants), the defined benefit plans were further divided between very large (1,000 or more participants) and other large plans (at least 100 participants, but fewer than 1,000 participants). Small plans (less than 100 participants) were divided similarly, except that they were divided into Form 5500–SF eligible and Form 5500–SF ineligible plans, as applicable. Welfare plans were divided into group health plans and plans that do not provide any group health benefits, while plans that provide group health benefits and have fewer than 100 participants were divided into fully insured group health plans and unfunded, combination unfunded/fully insured plans, or funded with a trust group health plans. DFEs were divided into Master Trusts/MTIAs, CCTs, PSAs, 103–12 IEs, and GIAs. For each of these sets of respondents, burden hours per respondent were estimated for the Form 5500 Annual Return/Report itself and up to seven schedules or the Form 5500–SF (and the Schedule SB, for Form 5500–SF eligible defined benefit pension plans).

We also separately estimated the costs for each of the forms and for each schedule that is part of the Form 5500 Annual Return/Report. When items on a schedule are required by more than one Agency, the estimated burden associated with that schedule is allocated among the Agencies. This allocation is based on how many items are required by each agency. The burden associated with reading the instructions for each item also is tallied and allocated accordingly.

The reporting burden for each type of plan is estimated in light of the circumstances that are known to apply or that are generally expected to apply to such plans, including plan size, funding method, usual investment structures, and the specific items and schedules such plans ordinarily complete. For example, under the proposal, a small, fully insured group health plan would be required to file only basic questions on the Form 5500 and the proposed Schedule J. By contrast, a large single-employer defined benefit pension plan that is intended to be tax-qualified that has insurance products among its investments and whose service providers received compensation above the Schedule C reporting thresholds would be required to submit an annual report completing almost all the line items of the Form 5500, plus Schedule A (Insurance Information), Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information), Schedule C (Service Provider Information), possibly the Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), and Schedule R (Retirement Plan Information), and would be required to submit an IQPA report. In this way, the Agencies intend meaningfully to estimate the relative burdens placed on different categories of filers.

Burden estimates were adjusted for the proposed revisions to each schedule, including items added or deleted in each schedule and items moved from one schedule to another.

The DOL has not attributed a recordkeeping burden to the 5500 Forms in this analysis or in the Paperwork Reduction Act analysis because it believes that plan administrators' practice of keeping financial records necessary to complete the 5500 Forms arises from usual and customary management practices that would be used by any financial entity and does not result from ERISA or Code annual reporting and filing requirements.

The aggregate baseline burden is the sum of the burden per form and schedule as filed prior to this action multiplied by the estimated aggregate number of forms and schedules filed.[61] The DOL estimated the burden impact of changes in the numbers of filings and of changes made to the form and the various schedules. The burden estimates use data from the Form 5500 Annual Return/Report for plan year 2013, which is the most recent year for which complete data is available. The Overall Total line in Table 4 shows that the aggregate cost under the current and proposed requirements, respectively, add up to $488.1 million and $817.0 million.

TABLE 4—NUMBER OF AFFECTED FILERS AND COSTS UNDER PRIOR AND NEW REQUIREMENTS

Type of filer	Number of filers under current requirements (thousands)	Number of filers under proposed requirements (thousands)	Aggregate annual cost under current requirements (millions)	Aggregate annual cost under proposed requirements (millions)
Overall Total	816.3	2,967.5	$488.1	$817.0
Large Plans	148.5	148.5	252.4	309.3
DB/ME/100–1,000 LARGE (Non-ESOP)	0.5	0.5	1.6	1.9
DB/ME/1,000+ LARGE (Non-ESOP)	0.8	0.8	2.8	3.1
DB/SE/100–1,000 LARGE (Non-ESOP)	4.8	4.8	13.0	15.2
DB/SE/1,000+ LARGE (Non-ESOP)	2.8	2.8	8.5	9.6
DC/ME/LARGE (100+ Participants) (Non-ESOP)	1.1	1.1	2.1	2.5
DC/SE/LARGE (100+ Partic.) (ESOP)	2.9	2.9	4.0	6.4
DC/SE/LARGE (100+ Partic.) (Non-ESOP)	62.2	62.2	109.2	135.9
Welfare/LARGE (Health)	47.9	47.9	91.7	114.2

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accessed at the DOL's Web site at *www.dol.gov/ebsa*.

[60] For purposes of this analysis, multiple employer plans were treated as single employer plans.

[61] Some filers are eligible to file the Form 5500–SF, but choose to file a Form 5500 and attach Schedule I and/or other schedules because they find it less burdensome to do so in their particular situation. In an effort to be conservative in estimating burden, counts of these filings are adjusted to reflect what they would have filed if they had chosen to file the Form 5500–SF.

TABLE 4—NUMBER OF AFFECTED FILERS AND COSTS UNDER PRIOR AND NEW REQUIREMENTS—Continued

Type of filer	Number of filers under current requirements (thousands)	Number of filers under proposed requirements (thousands)	Aggregate annual cost under current requirements (millions)	Aggregate annual cost under proposed requirements (millions)
Welfare/ME/LARGE (Non-Health)	0.8	0.8	1.1	1.4
Welfare/SE/LARGE (Non-Health)	24.8	24.8	18.5	19.1
Small Plans Eligible for 5500–SF	622.4	622.4	205.8	227.3
DB/Eligible for 5500–SF/SMALL (Non-ESOP)	41.1	41.1	37.6	39.0
DC/Eligible for 5500–SF/SMALL (Non-ESOP)	580.7	580.7	168.0	188.0
Welfare/Eligible for 5500–SF/SMALL (Non-Health)	0.7	0.7	0.2	0.2
Small Plans Not Eligible for 5500–SF	35.9	2,187.7	18.4	266.1
DB/ME/Not Eligible for 5500–SF/SMALL (Non-ESOP)	0.05	0.05	0.06	0.1
DB/SE/Not Eligible for 5500–SF/SMALL (Non-ESOP)	0.9	0.9	1.0	1.8
DC/ME/Not Eligible for 5500–SF/SMALL (ESOP)	0.001	0.001	0.0004	0.002
DC/ME/Not Eligible for 5500–SF/SMALL (Non-ESOP)	0.1	0.1	0.1	0.2
DC/SE/Not Eligible for 5500–SF/SMALL (ESOP)	3.8	3.8	1.8	5.8
DC/SE/Not Eligible for 5500–SF/SMALL (Non-ESOP)	21.5	21.5	10.0	27.9
Welfare/Not Eligible for 5500–SF/SMALL (Fully Insured Health)	0.0	1,869.0	0.0	69.6
Welfare/Not Eligible for 5500–SF/SMALL (Unfunded, Combination Unfunded/Fully Insured, or Funded with a Trust Health)	6.2	289.0	4.1	158.2
Welfare/ME/Not Eligible for 5500–SF/SMALL (Non-Health)	0.1	0.1	0.1	0.2
Welfare/SE/Not Eligible for 5500–SF/SMALL (Non-Health)	3.2	3.2	1.5	2.4
DFEs	9.4	8.9	11.4	14.2
Master Trust Investment Accounts and Master Trusts	1.6	1.0	2.7	2.2
Common Collective Trusts	4.0	4.0	4.3	6.0
Pooled Separate Accounts	3.2	3.2	3.3	4.7
103–12 Investment Entities	0.5	0.5	0.7	0.9
Group Insurance Arrangements	0.1	0.1	0.4	0.4

Note: Some displayed numbers do not sum up to the totals due to rounding.
DB—defined benefit plans.
DC—defined contribution plans.
SE—single-employer plans.
ME—multiemployer plans.
Large plans—100 participants or more.
Small plans—generally fewer than 100 participants.

Uncertainty Within Estimates: Because the DOL has access to the historical Form 5500 Annual Return/Report filing information, the DOL has good data for the number of pension plans, large welfare plans, including group health plan filers that file the various schedules, and DFEs, and the types of plans those filers represent. However, there is some uncertainty regarding the number of welfare plans that provide group health benefits and have fewer than 100 participants filing. There is also some uncertainty in the unit cost estimates.

There are two main issues with the methodology for counting welfare plans that provide group health benefits. First, MEPS does not differentiate between establishments offering single or multiemployer plans, which implies EBSA over-counts health plans (*i.e.,* a firm offering health insurance is counted as providing benefits to their employees when in fact one multiemployer plan may cover several firms). Second, MEPS–IC respondents that "offer 2 or more plans" are generally referencing plan types (*i.e.* HMO vs PPO) or types of employees (part-time plan vs executive plan) which would likely be included on a single Form 5500 Annual Return/Report with a single plan number on the form, which again would over-count the EBSA estimate.

With regard to the unit cost estimates, the DOL has no direct measure for the unit costs and uses a proxy adapted from the MPR model, which was developed in the late 1990s. In addition, some uncertainty is inherent in any proposed revision to the existing form, and the level of uncertainty increases where the proposal adds a new requirement, such as the proposed new group health plan filing requirements, rather than revising, deleting, or moving existing items from one schedule to another.

Regulatory Alternatives

Executive Order 12866 directs federal agencies promulgating regulations to evaluate regulatory alternatives. The DOL and the other Agencies have done so in the process of developing this proposal. The following summarizes major alternatives considered, but not proposed.

(1) *Alternative approaches for modernizing financial information besides revising the Schedule H and eliminating the Schedule I.*

Most of the changes that are being proposed to modernize the financial information that is reported on the form respond to recommendations from GAO, DOL–OIG, TIGTA, ERISA Advisory Council and other advisory groups. Early in the regulatory process, the Agencies considered revising the Schedule I instead of eliminating it, but the Agencies determined that reporting on alternative and hard-to-value assets, which is not required on the current Schedule I, is just as vital for enforcement purposes for small plans as for large plans. Adding reporting on alternative and hard-to-value assets to the financial statement on Schedule I in a meaningful way would have made Schedule H and Schedule I substantially similar. Therefore, to best effectuate the goal of providing more transparency on plan investments in alternative and hard-to-value assets, which is important for understanding the risks to participants in small plans as well as large, the Agencies concluded that eliminating the Schedule I and requiring small plans with alternative and hard-to-value assets to file the Schedule H was the most appropriate alternative.

(2) *Alternative approaches for group health plan reporting.*

In addition to the proposed annual reporting regime described in detail earlier in this preamble, the DOL considered a variety of other reporting options for group health plans. Among the options considered were (a) using existing IRS data or entering into a data sharing agreement with HHS; (b) requiring all group health plans, including small, fully insured plans to file a complete Form 5500 and Schedule J, along with the other schedules required to be filed currently by group health plans that are not exempt from filing under the existing regulations; and (c) requiring small, fully insured plans to file a Form 5500 and Schedule J every second or third year and requiring those plans to file a registration form in all other years, similar to the Form 5500–C/R structure used prior to 1999.

In an effort to minimize burden and reporting duplication, the DOL reviewed existing IRS health plan data to determine if any of these data would be usable. The DOL concluded that all data collected by the IRS about health plans, such as premium information, minimum essential coverage information, and information on the number of employees covered, is collected specifically to assess Affordable Care Act-related excise taxes and penalties and is subject to a higher threshold for information sharing than most other data collected by federal agencies. Therefore, the DOL concluded that its enforcement, policymaking, and research needs would not rise to the threshold to enable the IRS to share data. The DOL also consulted with HHS to determine whether any of their data might be appropriate; however, HHS does not collect any data on the "plan" level, which is the level of detail needed by the DOL to inform oversight, Congressional reporting, and policy obligations under Title I of ERISA.

The DOL considered requiring welfare plans that offer group health benefits with fewer than 100 participants that are fully insured to file the complete Form 5500 and Schedule J, as would now be required of welfare plans that offer group health benefits with fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust. The DOL also considered requiring welfare plans that offer group health benefits with fewer than 100 participants that are fully insured to attach a Schedule A (in addition to the Form 5500 and Schedule J). The DOL decided against both of these options after weighing the benefits of getting additional data and the likely burdens. DOL also took into account that that the data of most benefit is the proposed new reporting to provide identity, number, and basic funding and benefit structures and types for these plans, which is currently unavailable due to the Form 5500 filing exemption from filing for these plans. More information than that would provide the DOL with somewhat more robust data, but it would not merit the burden of requiring the estimated nearly 2 million small, fully insured plans to report such information, particularly since much of the information is directed towards pension plans and welfare plans that are funded with a trust. For comparison, the DOL estimates that a plan that provides group health benefits with fewer than 100 participants filing a complete Form 5500 Annual Return/Report and a complete Schedule J will incur 5 hours and 14 minutes of burden, while one with fewer than 100 participants answering only limited questions on the Form 5500 and Schedule J will incur only 30 minutes of burden. If the DOL were to require these plans to file a complete Form 5500 and a complete Schedule J, then each of the estimated 2 million welfare plans that offer group health benefits with fewer than 100 participants that are fully insured would incur an additional 4 hours and 44 minutes of burden, at an additional aggregate annual reporting cost of $927.6 million. Attaching a Schedule A requires 2 hours and 45 minutes of burden for welfare plans that offer group health benefits with fewer than 100 participants. If the DOL were to require welfare plans that offer group health benefits with fewer than 100 participants that are fully insured to attach Schedule A, the additional aggregate annual reporting cost would be $583.4 million. The DOL concluded that requiring these fully insured plans to file a complete Form 5500 and Schedule J, as well as potentially Schedule A would grant the DOL slightly more robust data in a significantly more burdensome fashion compared with the chosen option.

The DOL decided, however, that plans that provide group health benefits and have fewer than 100 participants that are not fully insured, *i.e.,* some or all of the funding comes from the general assets of the employer or funded through a trust, would have to complete the full Form 5500 Annual Return/Report and the full Schedule J, as well as the Schedule A, if applicable. The filings for plans that provide group health benefits and have fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust would generally be similar to those for plans that provide group health benefits and have 100 or more participants that are funded in the same way. Group health plans that are unfunded, combination unfunded/fully insured, or funded with a trust, by definition, are fully or partially self-insured, and the DOL believes that the additional Schedule J information, in particular, is important for the DOL's role with regard to oversight and to development of the self-insured report.

Relatedly, the DOL also considered not requiring plans that provide group health benefits and have fewer than 100 participants that are funded with a trust to file the more detailed financial and service provider information required of large plans that are funded with a trust, in particular the Schedule C and Schedule H. Small welfare plans that provide group health benefits that are funded with a trust are already filing either the Form 5500–SF or the Form 5500 Annual Return/Report and the Schedule I. If a small welfare plan funded with a trust is required to file a Form M–1 or is invested in alternative or hard-to-value assets, it currently would have to file the Form 5500 with a Schedule I, and, if applicable, Schedule A. As with small pension plans required to file the Form 5500 Annual Return/Report, in general, the proposal would have plans that provide group health benefits and have fewer than 100 participants that are funded using a trust file in the same manner as plans that provide group health benefits that have 100 or more participants that are funded using a trust.

With respect to requiring filing of the Schedule C by plans that provide group health benefits and have fewer than 100 participants that are currently not subject to any filing requirement (*i.e.,* unfunded, fully insured, or combination unfunded/fully insured), the Agencies took into account that the existing 408b–2 regulation only applies to pension plans. Large welfare plans that are funded with a trust are already required to file a Schedule C with service provider compensation information, and the difference in information reporting should not be significant. Moreover, small plans that are funded with a trust would already be required to keep as part of their records information on direct compensation, because direct expenses are reported as administrative expenses of the plan. With respect to indirect compensation, given that the class of service providers for whom indirect compensation must be reported is limited to those identified in 408b–2, a small plan should not have many service providers that would be required to be reported, and so the burden should be minimal. Just as the Agencies believe that it is important to have improved information on small pension plans that invest in alternative and hard-to-value assets, so too, they believe that is important to have the information for small welfare plans that are funded with a trust that invest in such assets. To the extent that small plans funded with a trust are the plans most likely to experience financial difficulties, having this information should help the Agencies and participants and beneficiaries better monitor the financial stability. Additionally, the Form 5500 Annual Return/Report together with the proposed Schedule J would give basic contribution, claims, benefit structure, and group health compliance information. For these reasons, the DOL concluded that the burden of requiring plans that provide group health benefits and have fewer than 100 participants, other than those funded with a trust, to also file the Schedule C and Schedule H would outweigh the benefits of requiring that these schedules be filed; therefore, those plans are not required to do so.

Finally, the DOL considered requiring small, fully insured plans to file a Form 5500 Annual Return/Report and Schedule J every second or third year and requiring those same plans to file a registration form in alternate years. This option was ruled out due to public comments made during the 1999 Form 5500 Annual Return/Report revisions. Prior to the 1999 revisions, some filers were eligible to file the Form 5500–C/R, which included robust reporting during one year and more limited reporting during the second and third years of a three year cycle. Commenters responding to the proposed 1999 revisions were supportive of the DOL's plan to eliminate Form 5500–C/R, and accordingly eliminate the multi-year cycle of reporting, because they felt that it was difficult to keep track of the schedule.[62] In an effort to take those comments into account, the DOL decided not to propose a reporting scheme for small, fully insured group health plans that required filing a registration statement in certain years and more expansive information in other years because DOL thought it would likely be confusing, lead to filer error, and inconsistent reporting. The proposal to have the currently exempt plans that provide group health benefits with fewer than 100 participants complete some or all of the Form 5500 Annual Return/Report and Schedule J was designed to get the minimal amount of information needed for research, policy, and oversight purposes, with the simplest and least amount of reporting.

(3) *Alternative approaches for ESOP-specific reporting.*

In addition to the proposed restoration of the Schedule E, the Agencies also considered whether to add only certain additional ESOP questions to existing schedules, such as the Schedule R, which currently has ESOP questions that were moved to the Schedule R from the Schedule E when the Schedule E was eliminated for 2009 and later filings. As discussed above, before 2009, the Schedule E (ESOP Annual Information) was an IRS-only component of the Form 5500 Annual Return/Report used to collect data on ESOPs. As with other "IRS-only" schedules that were part of the Form 5500 Annual Return/Report, when the DOL mandated electronic filing of the Form 5500 Annual Return/Report as part of EFAST2, the Schedule E was removed from the Form 5500 Annual Return/Report in 2009 due to the statutory limits on the IRS's authority to mandate electronic filing of such information.

The DOL believes that many of the ESOP questions that were eliminated in 2009 because they were "IRS-only" are useful for DOL's enforcement and research programs of DOL, as well as for participants and beneficiaries in ESOPs. In addition, several new questions have been included to provide a more comprehensive view of ESOPs. With the increase in ESOP-specific questions, the use of a single schedule for all ESOP questions would be a more effective and efficient information collection tool for the Agencies than having some questions on the Schedule R and some questions on the Schedule E.

(4) *Alternative approaches for service provider reporting.*

Most of the changes that are being proposed to revise the service provider information that is reported on the form respond to recommendations from GAO, DOL–OIG, TIGTA, and other advisory groups. As discussed previously, the Agencies evaluated whether to require welfare plans that offer group health benefits with fewer than 100 participants to complete the Schedule C. The Agencies also evaluated whether or not to require small pension plans that are required to file the Form 5500 Annual Return/Report to complete the Schedule C, but decided that due to the importance of the information for participants and beneficiaries, plan officials responsible for understanding compensation arrangements, and the Agencies, the benefit outweighed the burden. Because the majority of pension plan filers are small plans that are eligible to file the Form 5500–SF, the Agencies considered whether to add questions to the Form 5500–SF requiring filers to provide indirect compensation information. The Agencies determined that to minimize burden, rather than adding new questions that were a subset or total of those on the Schedule C, they would simply require defined contribution pension plan Form 5500–SF filers to file the comparison chart under the DOL's regulation at 29 CFR 404a–5. This would provide some information (though not in the form of structured data) regarding service provider compensation with only minimal burden.

(5) *Alternative approaches for DFE reporting.*

Most of the changes that are being proposed to revise DFE reporting respond to recommendations from GAO, DOL–OIG, TIGTA, and others. The Agencies considered a variety of alternative ways to improve DFE reporting. Included in those alternatives was expanding Schedule D reporting to require plans to provide the date of the most recent Form 5500 Annual Return/Report filing of the DFEs in which a plan or investing DFE was invested. The Agencies also considered having both plans and CCTs, PSAs, and 103–12 IEs identify on the Schedule H, Line 4i Schedules of Assets the underlying assets of those DFEs. To minimize burden and duplicative reporting, the Agencies instead chose to eliminate the requirement for plans to complete the Schedule D, and have plans and filing DFE's identify on the plan or filing DFEs Line 4i Schedule of Assets underlying assets by category where the DFE has filed a Form 5500 Annual Return/Report. The assets would be broken out by the plan only if a CCT or PSA did not file a Form 5500 Annual Return/Report. The Agencies also considered whether to require plans that file the Form 5500–SF that participate in DFEs to provide more detailed information on those DFEs to help provide a more complete crosswalk between DFE and plan filings. The Agencies determined that the burden would outweigh the benefit in that regard. In addition, the Agencies considered, but decided against, requiring CCTs and PSAs that file the Form 5500 Annual Return/Report and 103–12 IEs to complete both Schedule H, Line 4i Schedules of Assets. The Agencies determined that having such entities complete just the Line 4i(1) Schedule of Assets Held for

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[62] See 65 FR 5026.

Investment, and not the Line 4i(2) Schedule of Assets Disposed During Plan Year, would adequately address concerns with quality and usefulness of data, while minimizing burden.

Regulatory Flexibility Act—Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) (RFA) imposes certain requirements with respect to Federal rules that are subject to the notice and comment requirements of section 553(b) of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) and that are likely to have a significant economic impact on a substantial number of small entities. In accordance with section 603 of the RFA, the following reflects EBSA's Initial Regulatory Flexibility Analysis (IRFA) describing the impact of the rule on small entities and seeking public comment on such impact.

For purposes of this IRFA, the DOL continues to consider a small entity to be an employee benefit plan with fewer than 100 participants, as it has in many previous IRFAs measuring the impact of proposed regulatory actions on small employee benefit plans. The definition of small entity considered appropriate for this purpose differs, however, from a definition of small business that is based on size standards promulgated by the Small Business Administration (SBA) (13 CFR 121.201) pursuant to the Small Business Act (15 U.S.C. 631 *et seq.*). The basis of EBSA's definition of a small entity for this IRFA is found in section 104(a)(2) of ERISA, which permits the Secretary to prescribe simplified annual reports for pension plans that cover fewer than 100 participants. While some large employers may have small plans, in general small employers maintain most small plans. The Form 5500 Annual Return/Report impacts any employer in any private sector industry who chooses to sponsor a plan. The DOL is unable to locate any data linking employer revenue to plans to determine the relationship between small plans and small employers in industries whose SBA size standard is revenue-based. For a separate project, the DOL purchased data on ESOPs that file the Form 5500 and on defined contribution pension plans that file the Form 5500–SF from Experian Information Solutions, Inc. The Experian dataset provides the number of employees for the plan sponsor. By merging these data with internal DOL data sources, the DOL determined the relationship between small plans and small employers in industries whose SBA size standard is based on a threshold number of employees that varies from 100 to 1,500 employees. Based on these data, the DOL estimates that over 97 percent of small retirement plans and over 80 percent of small health plans are sponsored by employers with less than 100 employees. The DOL estimates that over 99 percent of small retirement plans and over 97 percent of small health plans are sponsored by employers with less than 1,500 employees. Thus, the DOL believes that assessing the impact of these proposed rules on small plans is an appropriate substitute for evaluating the effect on small entities. In previous regulations, the DOL has consulted with the SBA Office of Advocacy concerning use of this participant count standard for RFA purposes, see 13 CFR 121.902(b)(4), and the DOL received no comments suggesting use of a different size standard. The Department solicits public comments on the appropriateness of continuing to use this size standard.

The following subsections address specific components of an IRFA, as required by the RFA.

Need for the rule and its objectives: The DOL is publishing this proposal to amend the regulations relating to the annual reporting and disclosure requirements of section 103 of ERISA simultaneously with the publication of the Notice of Proposed Forms Revisions. The DOL continually strives to tailor reporting requirements to minimize reporting costs, while ensuring that the information necessary to secure ERISA rights is adequately available. The optimal design of reporting requirements in order to satisfy these objectives changes over time. As discussed in the Need for Regulatory Action section above, the Form 5500 and the financial statements contained in the current Schedule H (Large Plan Financial Information) and Schedule I (Small Plan Financial Information) are based on data elements that have remained largely unchanged since the Form 5500 Annual Return/Report was established in 1975. Meanwhile, benefit plan designs and practices have evolved over time in response to market trends in labor, financial, health care, and insurance markets, and markets for various services used by plans. In addition, the technologies available to manage and transmit information continually advance. Therefore, it is incumbent on the Agencies to revise their reporting requirements from time to time to keep pace with such changes. The proposed forms revisions, and associated DOL regulatory amendments in the proposal, are intended to calibrate reporting requirements to take into account certain recent changes in markets, the law (including the Affordable Care Act), and technology, many of which are referred to above in this document.

Description and estimate of number of small entities to which rule will apply: This proposal increases the number of small plans required to comply with annual reporting requirements by requiring approximately 1.9 million welfare plans that provide group health benefits with fewer than 100 participants that previously were exempt from annual reporting to file a Form 5500 Annual Return/Report, completing lines 1–5 on Form 5500 and lines 1–8 on Schedule J. This proposal also requires approximately 289,000 plans that provide group health benefits and have fewer than 100 participants that are unfunded, combination unfunded/fully insured, or funded with a trust to file a Form 5500 Annual Return/Report, where previously roughly 6,000 were required to do so. In total, approximately 2.81 million small pension plans and plans that provide group health benefits covering fewer than 100 participants would be required to comply with annual reporting requirements, where previously approximately 658,000 were required to do so. As described previously, estimates of the number of small pension plans and small welfare plans that do not offer group health benefits are based on 2013 Form 5500 filing data. Estimates of the number of plans that provide group health benefits and have fewer than 100 participants are based on MEPS–IC and Census of Business data.

Description of projected reporting, recordkeeping, and other compliance requirements of the rule: The reporting requirements applicable to small plans are detailed above and in the associated Notice of Proposed Forms Revision. Almost 89 percent of the 2.81 million small plans subject to the proposed annual reporting requirements can satisfy the requirements through streamlined options.

The 1.9 million welfare plans that provide group health benefits with fewer than 100 participants can fulfill the proposed reporting requirements answering lines 1–5 of the Form 5500 and line 1–8 of the Schedule J. For these plans, annual reporting will require the use of a mix of clerical and professional administrative skills.

Over 581,000 small defined contribution pension plans and small welfare plans that do not provide group health benefits can fulfill the proposed reporting requirements with the Form 5500–SF with no schedules required to be attached. All of these plans are eligible for the waiver of audit requirements. For such plans, therefore, satisfaction of the applicable proposed annual reporting requirements is not expected to require the services of an IQPA or auditor, but, like the small, fully insured group health plans, will require the use of a mix of clerical and professional administrative skills. Another 41,000 small defined benefit pension plans and money purchase plans will continue to be eligible to use the streamlined 5500–SF; satisfaction of the proposed reporting requirements will require additional services of an actuary and submission of the Schedule SB or Schedule MB, as applicable, and no other schedules.

The remaining 319,000 small pension and welfare plans will not be eligible to use the Form 5500–SF or any other streamlined reporting option. These plans will be required to file the Form 5500 Annual Return/Report, along with any other schedules required for pension plans or welfare plans that are not fully insured group health plans.[63] Of these plans, approximately 289,000 are welfare plans that provide group health benefits and are unfunded, combination unfunded/fully insured, or funded with a trust, 25,000 are defined contribution pension plans, and over 3,000 are welfare plans that do not provide group health benefits. All will require a mix of clerical and professional administrative skills to satisfy the proposed reporting requirements. Fewer than 1,000 small pension plans that are not eligible to use the Form 5500–SF are defined benefit pension plans that will be required to use an actuary and file Schedule MB or Schedule SB in addition to needing a mix of clerical and professional administrative skills to satisfy the proposed reporting requirements.

Satisfaction of the proposed annual reporting requirements under these regulations is not expected to require any additional recordkeeping that would not otherwise be part of normal business practices.

Table 5 below compares the DOL's estimates of small plans' reporting costs under the requirements in effect prior to this action with those under the new requirements for various classes of affected plans. As shown, costs under the new requirements will be slightly higher for small pension plans and small welfare plans that are eligible to file the Form 5500–SF and significantly higher for small pension and welfare plans that are not eligible to file the Form 5500–SF (including group health plans). As discussed above, the significant increase for group health plans reflects the elimination of prior reporting exemptions for most plans that provide group health benefits and have fewer than 100 participants. The significant increase for small pension plans and small welfare plans that do not offer group health benefits that are not eligible to file the Form 5500–SF results primarily from the changes to financial and service provider reporting. The DOL notes that for the over 90 percent of plans that are eligible for annual reporting under streamlined options, the per-filer cost under the proposed requirements increases by $35–37 annually relative to the current requirements.[64] These estimates take account of the quantity and mix of clerical and professional skills required to satisfy the reporting requirements for various classes of plans.

TABLE 5—SMALL PLAN REPORTING COSTS UNDER PRIOR AND NEW REQUIREMENTS

Class of small plan	Number of filers under current requirements (thousands)	Number of filers under proposed requirements (thousands)	Aggregate annual cost under current requirements (millions)	Aggregate annual cost under proposed requirements (millions)	Annual per filer cost under current requirements	Annual per filer cost under proposed requirements
Defined Benefit Pension—Eligible for 5500–SF	41.1	41.1	$37.6	$39.0	$916	$951
Defined Benefit Pension—Not Eligible for 5500–SF	1.0	1.0	1.1	1.9	1,150	1,970
Defined Contribution Pension—Eligible for 5500–SF	580.7	580.7	168.0	188.0	289	324
Defined Contribution Pension—Not Eligible for 5500–SF	25.4	25.4	11.8	33.9	484	1,335
Welfare—Non-Health—Eligible for 5500–SF	0.7	0.7	0.2	0.2	289	324
Welfare—Non-Health—Not Eligible for 5500–SF	3.3	3.3	1.5	2.5	455	758
Welfare—Fully Insured Health	0.0	1,869.0	0.0	69.6	0	37
Welfare—Unfunded, Combination Unfunded/Insured, or Funded with a Trust Health	6.2	289.0	4.1	158.2	654	547
Total for All Small Plans	658.3	2,810.1	224.3	493.4	341	176

In comparison to the costs per filer described in Table 5, the 75,000 large pension plans will incur an average cost of $2,326 under the proposed requirements and the almost 74,000 large welfare plans subject to annual reporting requirements will incur an average cost of $1,833 each year.[65]

Table 6 below compares the DOL's estimates of small plans' reporting costs under the requirements in effect prior to this action with those under the new requirements as a percentage of plan assets for pension plans and welfare plans that do not offer group health benefits and as a percentage of annual health insurance premiums for welfare plans that offer group health benefits to show the impact of the reporting requirement on small plans of differing sizes.[66] As shown, group health plans with five or fewer participants that are unfunded, combination unfunded/fully insured, or funded with a trust incur the highest costs as a result of the proposed reporting requirements, incurring an annual reporting cost of 0.998 percent of their annual health insurance premiums. Non-health welfare plans that are eligible to file Form 5500–SF and have between 6 and 10 participants incur the second highest costs under the proposed reporting requirements. These plans' annual reporting cost is 0.561 percent of their plan assets.

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[63] The exact schedules that these plans are required to attach vary based on the plans' specific facts and circumstances.

[64] In the case of the 2.0 million small, fully insured group health plans, the increase in per filer cost is from no cost to $37 per year.

[65] Average costs for large plans do not include the costs of obtaining the report of an IQPA or an actuarial report, if such a report is required for the plan's specific situation.

TABLE 6—SMALL PLAN REPORTING COSTS UNDER PRIOR AND NEW REQUIREMENTS AS A PERCENTAGE OF PLAN ASSETS OR AGGREGATE ANNUAL HEALTH INSURANCE PREMIUMS

Class of small plan (participants)	Annual per filer cost under current requirements as a percentage of plan assets or aggregate annual health insurance premiums	Annual per filer cost under proposed requirements as a percentage of plan assets or aggregate annual health insurance premiums	Number of plans subject to proposed filing requirements
Defined Benefit Pension—Eligible for 5500–SF:			
5 or Fewer	0.088	0.091	178,694
6–10	0.084	0.087	105,458
11–25	0.067	0.070	139,971
26–50	0.040	0.041	86,936
51–75	0.022	0.023	38,822
76–90	0.018	0.018	14,491
90–99	0.016	0.016	6,341
Defined Benefit Pension—Not Eligible for 5500–SF:			
5 or Fewer	0.002	0.003	566
6–10	0.050	0.086	82
11–25	0.041	0.069	60
26–50	0.016	0.027	40
51–75	0.017	0.028	46
76–90	0.016	0.027	66
90–99	0.020	0.034	90
Defined Contribution Pension—Eligible for 5500–SF:			
5 or Fewer	0.045	0.050	178,694
6–10	0.036	0.040	105,458
11–25	0.024	0.027	139,971
26–50	0.014	0.016	86,936
51–75	0.010	0.011	38,822
76–90	0.008	0.009	14,491
90–99	0.007	0.008	6,341
Defined Contribution Pension—Not Eligible for 5500–SF:			
5 or Fewer	0.011	0.033	15,650
6–10	0.040	0.115	1,856
11–25	0.021	0.062	1,989
26–50	0.012	0.033	1,888
51–75	0.009	0.026	1,362
76–90	0.009	0.026	990
90–99	0.008	0.024	1,086
Welfare—Non-Health—Eligible for 5500–SF:			
5 or Fewer	0.135	0.151	263
6–10	0.501	0.561	61
11–25	0.269	0.301	124
26–50	0.124	0.139	91
51–75	0.036	0.041	58
76–90	0.057	0.064	32
90–99	0.134	0.150	23
Welfare—Non-Health—Not Eligible for 5500–SF:			
5 or Fewer	0.019	0.032	1,917
6–10	0.197	0.328	51
11–25	0.172	0.287	117
26–50	0.038	0.064	218
51–75	0.073	0.123	310
76–90	0.028	0.047	323
90–99	0.150	0.250	404
Welfare—Fully Insured Health			1,869,000
5 or Fewer	0.000	0.068	
6–10	0.000	0.034	
11–25	0.000	0.014	
26–50	0.000	0.007	

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[66] Plan asset data reflects data reported on 2013 Form 5500 filings. Because so few plans that provide group health benefits and have fewer than 100 participants are currently subject to annual reporting requirements and many group health plans do not hold assets in trusts, the DOL concluded that annual health insurance premium data reported by the Kaiser Family Foundation was a more appropriate metric for comparison of group health plans.

TABLE 6—SMALL PLAN REPORTING COSTS UNDER PRIOR AND NEW REQUIREMENTS AS A PERCENTAGE OF PLAN ASSETS OR AGGREGATE ANNUAL HEALTH INSURANCE PREMIUMS—Continued

Class of small plan (participants)	Annual per filer cost under current requirements as a percentage of plan assets or aggregate annual health insurance premiums	Annual per filer cost under proposed requirements as a percentage of plan assets or aggregate annual health insurance premiums	Number of plans subject to proposed filing requirements
51–75	0.000	0.005	
76–90	0.000	0.004	
90–99	0.000	0.003	
Welfare—Unfunded, Combination Unfunded/Fully Insured, or Funded with a Trust Health			289,000
5 or Fewer	1.192	0.988	
6–10	0.596	0.496	
11–25	0.238	0.199	
26–50	0.119	0.100	
51–75	0.079	0.066	
76–90	0.066	0.055	
90–99	0.060	0.050	

Note: Due to data constraints, the DOL is unable to break out smaller subgroup plan counts for welfare plans that provide group health benefits with fewer than 100 participants. Instead, the DOL has provided the total number of welfare plans that provide group health benefits with fewer than 100 participants.

The DOL is unaware of any relevant federal rules for small plans that duplicate, overlap, or conflict with these regulations.

Description of steps the DOL has taken to minimize impact on small entities: In developing these regulations and the associated forms revisions, the Agencies considered a number of alternative provisions directed at small plans, many of which are discussed elsewhere in this preamble and in the Notice of Proposed Forms Revision. The DOL believes that the proposed changes to the reporting requirements impose the least amount of burden on small plans, while allowing the DOL to collect sufficient information for it to fulfill its statutory responsibilities. Any efforts to further reduce reporting burden would have had a detrimental impact on the DOL's ability to protect plan participants and beneficiaries.

The new reporting requirements for welfare plans that offer group health benefits with fewer than 100 participants comprise over 83 percent of the increased burden on small plans. The subset of these welfare plans that are fully insured comprises almost 87 percent of welfare plans that offer group health benefits with fewer than 100 participants. As discussed previously, the DOL considered requiring welfare plans that offer fully insured group health benefits with fewer than 100 participants to file a Form 5500 Annual Return/Report and Schedule J annually, or alternatively, on a two or three year cycle. The DOL opted instead to have those plans file only limited information on the Form 5500 Annual Return/Report and Schedule J. Requiring those plans to file a complete Form 5500 Annual Return/Report and Schedule J annually would have added $927.6 million in annual reporting costs relative to the chosen alternative. The DOL also considered requiring welfare plans that offer group health benefits with fewer than 100 participants that are fully insured to attach a Schedule A (in addition to the Form 5500 and Schedule J). If the DOL were to require welfare plans that offer group health benefits with fewer than 100 participants that are fully insured to attach Schedule A, the additional aggregate annual reporting cost would be $583.4 million relative to the option chosen. The DOL rejected both of these options because they added significant cost ($1.5 billion total) with limited additional benefit.

As discussed above, the Schedule I is being eliminated for small plans that are not eligible to file Form 5500–SF because the Schedule I does not require small plans to provide detailed plan asset information. This shortcoming impairs the utility of the Form 5500 Annual Return/Report as a tool to obtain a meaningful picture of small plan investments in hard-to-value and other assets. As the GAO has noted, the limited financial information provided on the Schedule I creates a challenge for participants, beneficiaries, oversight agencies, researchers, and other users of the Form 5500 Annual Return/Report or its data.[67] Accordingly, under the proposed change, approximately 27,000 small plans that are not eligible to file the Form 5500–SF and currently are required to file the Schedule I would be required to complete the Schedule H and the applicable schedules of assets. Although this would result in additional reporting details for certain small plans, the Agencies do not expect that small plans with simple investment portfolios would see a significant increase in their annual reporting burden. Small plans with complex portfolios that include hard-to-value or alternative investments should have more transparent financial statements which may require somewhat more complex financial reporting obligations. In light of changes in the financial environment and increasing concerns about investments in hard-to-value assets and alternative investments, the Agencies continue to believe that requiring separate financial information regarding hard-to-value investments is important for regulatory, enforcement, and disclosure purposes. The DOL notes that although the proposal would require such small plans to complete the Schedule H instead of the Schedule I, including the Schedule H Line 4i(1) and 4i(2) Schedules of Assets, small plans that are eligible for a waiver of the annual examination and report of an IQPA under current rules would still be eligible for this waiver under the proposal.[68]

The proposed rule would also require approximately 18,200 small plans that are not eligible to file the Form 5500–SF to file Schedule C. Currently, only large plans must file a Schedule C, thus excluding a large portion of plans from having to disclose service provider fees. The Agencies recognize the burdens small plans face in complying with disclosure obligations. The Agencies therefore propose to require small pension plans to file Schedule C only if they do not meet the eligibility conditions for filing the Form 5500–SF, which generally would be those pension plans that are invested in alternative or hard-to-value assets. Small welfare plans that provide group health benefits (which are not eligible to file the Form 5500–SF) would also be required to file the Schedule C if they are not unfunded or insured (*e.g.*, funded using a trust). This would continue to emphasize sensitivity to reporting burden for small plans with simple investment portfolios, while addressing some of the GAO's concerns that not all critical information on indirect compensations is being reported to the Agencies. See GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information* at 25–26 (''Given these various exceptions to fee reporting requirements, Schedule C may not provide participants, the government, or the public with information about a significant portion of plan expenses and limits the ability to identify fees that may be questionable.'') In addition, the rule would align financial information reporting with recently adopted disclosure rules to ensure that all fees are reported by the plans.[69]

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[67] GAO *Targeted Revisions Could Improve Usefulness of Form 5500 Information*, at 18.

[68] 29 CFR 2520.104–46.

Paperwork Reduction Act Statement

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)), the DOL requests comments on the information collections included in the proposed amendments to the DOL's regulations relating to annual reporting and disclosure requirements under Part 1 of Subtitle B of Title I of ERISA and in the proposed revision of the Form 5500 Annual Return/Report pursuant to Part 1 of Subtitle B of Title I and Title IV of ERISA and the Code. The DOL has submitted an information collection request (ICR) to OMB in accordance with 44 U.S.C. 3507(d), for OMB's review of the DOL's information collections previously approved under OMB Control No. 1210–0110.

A copy of the ICR can be obtained by contacting the U.S. Department of Labor, Employee Benefits Security Administration, Office of Policy and Research, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210, Telephone: (202) 693–8410; Fax: (202) 219–4745 or at *www.RegInfo.gov.* These are not toll-free numbers.

OMB asks that comments about information collections in this NPRM be submitted by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRAsubmission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the party identified in the **ADDRESSES** section of this NPRM. OMB requests that comments be received within 75 days of publication of the proposed rule to ensure their consideration. Comments submitted in response to this request become a matter of public record. The Department and OMB are particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the DOL's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Congressional Review Act

The proposed rules being issued here are subject to the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) and, if finalized, will be transmitted to the Congress and the Comptroller General for review. The proposed rule is a ''major rule'' as that term is defined in 5 U.S.C. 804, because it is likely to result in an annual effect on the economy of $100 million or more.

Unfunded Mandates Reform Act Statement and Summary

Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538 requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector. Such a mandate is deemed to be a ''significant regulatory action.'' The current proposal is expected to have such an impact on the private sector, and the DOL therefore hereby provides such an assessment. The DOL's written statement as required by this act follows:

The DOL is issuing the current proposed regulations and forms revisions under Sections 103, 104, 110 and 505 of ERISA (29 U.S.C. 1023, 1024, 1030, and 1135). Under Titles I and IV of ERISA and the Code, pension and other employee benefit plans are generally required to file annual returns/reports concerning, among other things, the financial condition and operations of the plan. Filing a Form 5500 Annual Return/Report of Employee Benefit Plan or Form 5500–SF Short Form Annual Return/Report of Small Employee Benefit Plan, together with any required schedules and attachments, generally satisfies these annual reporting requirements. The current proposal would amend current reporting regulations and update the existing forms and schedules as explained in the summary information provided above in this document.

The DOL assessed the anticipated benefits and costs of the current proposal pursuant to Executive Order 12866 in the Regulatory Impact Analysis for the current proposal, above, and concluded that its benefits would justify its costs. The current proposal's material benefits and costs generally would be largely confined to the private sector, where plans would incur increased costs from expanded reporting requirements, while participants and beneficiaries and other end-users of the Form 5500 Annual Return/Report data would benefit from improved reporting. The DOL itself, as well as IRS, PBGC, and other governmental users would benefit from increased efficiency in enforcement activity and improved quality in research and policy decisions resulting from reporting data that more accurately reflect the current plan marketplace.

Some employee benefit plans sponsored by tribal governments that are subject to ERISA because they cover employees who are involved in performing commercial activities (whether or not such activities are essential government functions) may be affected by the Federal mandate contained in this rule, if it is adopted as

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[69] Id. at 50.

proposed. The DOL does not have sufficient data to estimate the amount of the increase in future compliance costs that would be imposed on tribal governments that sponsor these plans, but it believes such costs would be similar to those imposed on private sector employers that are discussed in the regulatory impact analysis. Such increased costs would not be paid with Federal financial assistance (or otherwise paid for by the government). The DOL is not aware of any available Federal resources to carry out this mandate on tribal governments. The budgetary impact of the mandate will fall on tribal governments that maintain certain employee benefit plans. Apart from this, the DOL does not believe that the mandate will cause any disproportionate budgetary effects on any particular regions of the nation or particular tribal governments, urban, rural or other types of communities, or particular segments of the private sector.

The DOL has not consulted with elected representatives of tribal governments, but will do so after the proposed regulations and forms revisions are published.

In summary, the DOL believes the benefits of this proposed rule are significant, and will result in a modernized annual return/report that has substantially more utility for the agencies, the regulated community, and the public. The proposed rule would also impose increased costs on employee benefit plan sponsors. Tribal governments that sponsor ERISA-covered plans will incur increased costs as will all other sponsors of ERISA-covered plans. The DOL lacks sufficient information to quantify the number of tribal governments impacted by this proposed rule, but believes that the costs imposed on tribal governments will be consistent with the costs imposed on all other sponsors of ERISA-covered plans. Finally, the DOL does not believe that the costs imposed by this proposed rule will have any disproportionate budgetary effects based on any particular regions of the nation or particular tribal governments, urban, rural or other types of communities, or particular segments of the private sector.

Federalism Statement

Executive Order 13132 (August 4, 1999) outlines fundamental principles of federalism and requires adherence to specific criteria by federal agencies in the process of their formulation and implementation of policies that have substantial direct effects on the States, the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. These proposed rules do not have federalism implications because they would have no substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Section 514 of ERISA provides, with certain exceptions specifically enumerated, that the provisions of Titles I and IV of ERISA supersede any and all laws of the States as they relate to any employee benefit plan covered under ERISA. The requirements implemented in these rules do not alter the fundamental provisions of the statute with respect to employee benefit plans, and as such would have no implications for the States or the relationship or distribution of power between the national government and the States.

List of Subjects

29 CFR Part 2520

Accounting, Employee benefit plans, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2590

Continuation coverage, Disclosure, Employee benefit plans, Group health plans, Health care, Health insurance, Medical child support, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Department proposes to amend Subchapter C, parts 2520 and 2590 of Title 29 of the Code of Federal Regulations as follows:

PART 2520—RULES AND REGULATIONS FOR REPORTING AND DISCLOSURE

■ 1. The authority section for part 2520 continues to read as follows:

Authority: 29 U.S.C. 1021–1025, 1027, 1029–31, 1059, 1134, and 1135; and Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012). Sec. 2520.101–2 also issued under 29 U.S.C. 1132, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.102–3, 2520.104b–1, and 2520.104b–3 also issued under 29 U.S.C. 1003, 1181–1183, 1181 note, 1185, 1185a–b, 1191, and 1191a–c. Secs. 2520.104b–1 and 2520.107 also issued under 26 U.S.C. 401 note, 111 Stat. 788.

■ 2. In § 2520.103–1, revise paragraphs (b)(1), (c)(1), (c)(2)(i), (c)(2)(ii)(D), (E), and (e), and add paragraphs (c)(2)(ii)(F) and (c)(2)(iii) to read as follows:

§ 2520.103–1 Contents of the annual report.

* * * * *

(b) * * *

(1) A Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule E (ESOP Annual Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), Schedule J (Group Health Plan Information), Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), Schedule R (Retirement Plan Information), Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information), and other financial schedules described in Sec. 2520.103–10. See the instructions for this form.

* * * * *

(c) * * *

(1) Except as provided in paragraphs (c)(2), (d), (e), and (f) of this section, and in §§ 2520.104–43, 2520.104a-6 and 2520.104–44, the annual report of an employee benefit plan that covers fewer than 100 participants at the beginning of the plan year shall include a Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule E (ESOP Annual Information), Schedule G (Financial Transactions), Schedule H (Financial Information), Schedule J (Group Health Plan Information), Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), Schedule R (Retirement Plan Information), and Schedule SB (Single Employer Defined Benefit Plan Actuarial Information), completed in accordance with the instructions for the form. See the instructions for this form.

(2)(i) The annual report of an employee pension benefit plan or employee welfare benefit plan that does not provide group health benefits and that covers fewer than 100 participants at the beginning of the plan year and that meets the conditions in paragraph (c)(2)(ii) of this section with respect to a plan year may, as an alternative to the requirements of paragraph (c)(1) of this section, meet its annual reporting requirements by filing the Form 5500–SF "Short Form Annual Return/Report of Small Employee Benefit Plan" and any statements or schedules required to be attached to the form, including Schedule SB (Single Employer Defined Benefit Plan Actuarial Information) and Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information), completed in accordance with the instructions for the form. See the instructions for this form.

(ii) * * *

(D) Is not a multiemployer plan;

(E) Is not a plan subject to the Form M–1 requirements under § 2520.101–2 (Filing by Multiple-employer Welfare Arrangements and Certain Other Related Entities); and

(F) Is not a group health plan as defined in section 733(a) of the Act.

(iii) The annual report of an employee benefit plan that meets the definition of a group health plan as defined in section 733(a) of the Act that covers fewer than 100 participants at the beginning of the plan year shall include a Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule H (Financial Information), and Schedule J (Group Health Plan Information). See the instructions for this form.

* * * * *

(e) *Plans that participate in a master trust.* The plan administrator of a plan which participates in a master trust shall file a Form 5500 Annual Return/Report in accordance with the instructions for the form relating to master trusts. For purposes of annual reporting, a master trust is a trust for which a regulated financial institution serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control respecting the management of assets held in the trust) and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held. A master trust must operate either on a calendar year basis or on the same fiscal year as all of the plans that are participating in the master trust. For purpose of this paragraph, a regulated financial institution is a bank, trust company, or similar financial institution regulated, supervised, and subject to periodic examination by a State or Federal agency. Common control is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated).

■ 3. In § 2520.103–2, revise paragraph (b)(1) to read as follows:

§ 2520.103–2 Contents of the annual report for group insurance arrangement.

* * * * *

(b) *Contents.* (1) A Form 5500 "Annual Return/Report of Employee Benefit Plan" and any statements or schedules required to be attached to the form, completed in accordance with the instructions for the form, including Schedule A (Insurance Information), Schedule C (Service Provider Information), Schedule D (DFE/Participating Plan Information), Schedule G (Financial Transaction Schedules), Schedule H (Financial Information), a separate Schedule J (Group Health Plan Information) for each participating plan, and the other financial schedules described in § 2520.103–10. See the instructions for this form.

* * * * *

■ 4. In § 2520.103–3, revise paragraph (c) to read as follows:

§ 2520.103–3 Exemption from certain annual reporting requirements for assets held in a common or collective trust.

* * * * *

(c) *Contents.* (1) A plan that meets the requirements of paragraph (b) of this section, and that invests in a common or collective trust that files a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: information required by the instructions to Schedule H (Financial Information) about the current value of and net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; identifying information in the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule of Assets Held for Investment Purposes and Schedule of Assets Disposed of During Plan Year; and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

(2) A plan that meets the requirements of paragraph (b) of this section and that invests in a common or collective trust that does not file a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: Information required by the instructions to Schedule H (Financial Information) about the current value of and the net investment gain or loss relating to the units of participation in the common or collective trust held by the plan; information required by the accompanying instructions to the "Schedule of Assets Held for Investment" about the current value of the plan's allocable portion of the underlying assets and liabilities of the common or collective trust; identifying information about the common or collective trust including its name, employer identification number, and any other information required by the instructions to the Schedule of Assets Held for Investment Purposes and Schedule of Assets Disposed of During Plan Year; and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the common or collective trust and transactions involving the acquisition and disposition by the plan of units of participation in the common or collective trust.

■ 5. In § 2520.103–4, revise paragraph (c) as follows:

§ 2520.103–4 Exemption from certain annual reporting requirements for assets held in an insurance company pooled separate account.

* * * * *

(c) *Contents.* (1) A plan that meets the requirements of paragraph (b) of this section, and which invests in a pooled separate account that files a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: Information required by the instructions to Schedule H (Financial Information) about the current value of and net investment gain or loss relating to the units of participation in the pooled separate account held by the plan; identifying information about the pooled separate account including its name, employer identification number, and any other information required by the instructions to the Schedule of Assets Held for Investment Purposes and Schedule of Assets Disposed of During Plan Year; and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the pooled separate account and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account.

(2) A plan that meets the requirements of paragraph (b) of this section and which invests in a pooled separate account that does not file a Form 5500 report in accordance with § 2520.103–9, shall include in its annual report: Information required by the instructions

to Schedule H (Financial Information) about the current value of and the net investment gain or loss relating to the units of participation in the pooled separate account held by the plan; information required by the accompanying instructions to the "Schedule of Assets Held for Investment" about the current value of the plan's allocable portion of the underlying assets and liabilities of the pooled separate account; identifying information about the pooled separate account including its name, employer identification number, and any other information required by the instructions to the Schedule of Assets Held for Investment Purposes and Schedule of Assets Disposed of During Plan Year; and such other information as is required in the separate statements and schedules of the annual report about the value of the plan's units of participation in the pooled separate account and transactions involving the acquisition and disposition by the plan of units of participation in the pooled separate account.

■ 6. In § 2520.103–6, revise paragraph (d) to read as follows:

§ 2520.103–6 Definition of reportable transaction for annual return/report.

* * * * *

(d) *Contents.* (1) The schedule of reportable transactions shall be filed in the format and include information as described in the instructions for the Form 5500 Annual Return/Report of Employee Benefit Plan.

(2) [Removed]

■ 7. In § 2520.103–8, revise paragraphs (a) and (c) and add new paragraphs (d) and (e) to read as follows:

§ 2520.103–8 Limitation on scope of accountant's examination.

(a) *General.* Under the authority of section 103(a)(3)(C) of the Act, the examination and report of an independent qualified public accountant need not extend to any statement or information prepared and certified by a bank or similar institution or insurance carrier provided the certification meets the requirements of paragraph (d) of this section.

* * * * *

(c) *Excluded information.* Any statements or information certified to by a bank or similar institution or insurance carrier described in paragraph (b) of this section, provided that the statements or information regarding assets so held are prepared and certified to by the bank or insurance carrier in accordance with the requirements of (d) of this section and § 2520.103–5.

(d) *Contents and manner.* The certification described in paragraph (a) of this section shall:

(1) Appear on a separate document from the list of plan assets covered by the certification;

(2) Identify the bank or insurance company holding the plan's assets;

(3) Describe the manner in which the bank or insurance company is holding the assets covered by the certification;

(4) State whether the bank or insurance company is providing current value information regarding the assets covered by the certification in accordance with 2520.103–5, and if so, state that the assets for which current value is being certified are separately identified in the list of assets covered by the certification;

(5) If current value is not being certified for all of the assets covered by the certification, include a caution that the certification is not certifying current value information and the asset values provided by the bank or insurance company may not be suitable for use in satisfying the plan's obligation to report current value information on the Form 5500 Annual Return/Report; and

(6) If the certification is being provided by an agent on behalf of the bank or insurance company, a statement certifying that the person providing the certification is an authorized agent acting on behalf of the bank or insurance company and affirming that the bank or insurance company is taking responsibility for the accuracy and completeness of the certification and the underlying records used as a basis for the information being certified.

(e) The administrator of a plan which meets the requirements of paragraph (b) of this section, and which is not required to have covered by the accountant's examination or report any of the information described in paragraph (c) of this section shall attach to the Form 5500 Annual Return/Report of Employee Benefit Plan the certification of investment information created by certain banks or insurance companies in accordance with the requirements of paragraph (d) of this section to comply with the limited scope audit requirements.

■ 8. In § 2520.103–10, revise paragraphs (b)(1)(i) and (2)(i) to read as follows:

§ 2520.103–10 Annual report financial schedules.

* * * * *

(b) * * *

(1) * * *

(i) A schedule of all assets held for investment purposes at the end of the plan year (see § 2520.103–11) with assets aggregated and identified as described in the instructions to the Form 5500 Annual Return/Report of Employee Benefit Plan.

* * * * *

(2) *Assets disposed of during the plan year.* (i) A schedule of all assets disposed of during the plan year (see § 2520.103–11) with assets aggregated and identified as described in the instructions to the Form 5500 Annual Return/Report of Employee Benefit Plan.

* * * * *

■ 9. In § 2520.104–20, revise paragraph (b)(1) to read as follows:

§ 2520.104–20 Limited exemption for certain small welfare plans.

* * * * *

(b) * * *

(1) Which have fewer than 100 participants at the beginning of the plan year, and do not provide benefits consisting of medical care as defined in section 733(a)(2) of the Act;

* * * * *

■ 10. In § 2520.104–26, revise paragraph (b) to read as follows:

§ 2520.104–26 Limited exemption for certain unfunded dues financed welfare plans maintained by employee organizations.

* * * * *

(b) *Application.* This exemption applies only to welfare benefit plans that do not provide benefits consisting of medical care as defined in section 733(a)(2) of the Act that are maintained by an employee organization, as that term is defined in section 3(4) of the Act, paid out of the employee organization's general assets, which are derived wholly or partly from membership dues, and which cover employee organization members and their families.

* * * * *

■ 11. Revise § 2520.104–42 to read as follows:

§ 2520.104–42 Waiver of certain actuarial information in the annual report.

Under the authority of section 104(a)(2)(A) of ERISA, the requirement of section 103(d)(6) of ERISA that the annual report include as part of the actuarial statement (Schedule SB) the present value of all of the plan's liabilities for nonforfeitable pension benefits allocated by termination priority categories, as set forth in section 4044 of title IV of ERISA, and the actuarial assumptions used in these computations, is waived.

■ 12. In § 2520.104b–10, revise the Appendix to § 2520.104b–10 to read as follows:

§ 2520.104b–10 Summary annual report.

* * * * *

APPENDIX TO § 2520.104B–10—THE SUMMARY ANNUAL REPORT (SAR) UNDER ERISA: A CROSS-REFERENCE TO THE ANNUAL REPORT

SAR Item	Form 5500 line items	Form 5500–SF line items
A. Pension Plan (defined contribution pension benefit plans and defined benefit pension plans that do not furnish the annual funding notice under 29 CFR 2520.101–4)		
1. Funding arrangement	Form 5500–10a	Line 13a.
2. Total plan expenses	Sch. H—2j	Line 10h.
3. Administrative expenses	Sch. H—2i(12)(C)	Line 10f.
4. Benefits paid	Sch. H—2e(4)	Line 10d.
5. Other Expenses	Sch. H—Subtract the sum of 2e(4) & 2i(12)(C) from 2j.	Line 10g.
6. Total Participants at end of plan year	Form 5500—7f	Line 7f.
7. Value of plan assets (net):		
a. end of plan year	Sch. H—1l [Col. (b)]	Line 9c [Col. (b)].
b. beginning of plan year	Sch. H—1l [Col. (a)]	Line 9c [Col. (a)].
8. Changes in Net Assets	Sch. H—Subtract 1l [Col. a] from 11 [Col. b]	Line 9c–Subtract [Col. a] from [Col. b].
9. Total Income	Sch. H—2d	Line 10c.
a. Employer contributions	Sch. H—2a(1)(A, & 2a(2) if applicable	Line 10a(1)(A).
b. Employee contributions	Sch. H—2a(1)(B), & 2a(2) if applicable	Line 10a(1)(B).
c. Gains (losses) from sale of assets	Sch. H—2c(4)(C)	Not applicable.
d. Earnings from investments	Sch. H—Subtract the sum of 2a(3) and 2c(4)(C) from 2d.	Line 10b.
10. Name of insurance carriers	Schs. A—1a	Not applicable.
11. Total insurance premiums	Sch. A—5b (total of all contracts)	Not applicable.
12. Unpaid minimum required contribution (S–E plans or Defined contribution plans) or Funding deficiency (ME plans):		
a. S–E Defined benefit plans	Sch. SB—43	Same.
b. ME Defined benefit plans	Sch. MB—10	Not applicable.
c. Defined contribution plans	Sch. R—7c, if not zero	Line 16b.
B. Welfare Plan		
1. Name of insurance carriers	Schs. A—1a	Not applicable.
2. Total (experience rated and non-experienced rated) insurance premiums.	Schs. A—Sum of 9a(1) and 10a (total of all contracts).	Not applicable.
3. Experience rated premiums	Schs. A—9a(1) (total of all contracts)	Not applicable.
4. Experience rated claims	Schs. A—9b(4) (total of all contracts)	Not applicable.
5. Value of plan assets (net)		
a. end of plan year	Sch. H—1l [Col. (b)]	Line 9c [Col. (b)].
b. beginning of plan year	Sch. H—1l [Col. (a)]	Line 9c [Col. (a)].
6. Changes in Net Assets	Sch. H—Subtract 1l [Col. a] from [Col. b]	Line 9c—Subtract [Col. a] from [Col. b].
7. Total Income	Sch. H—2d	Line 10c.
a. Employer contributions	Sch. H—2a(1)(A) & 2a(2) if applicable	Line 10a(1)(A) if applicable.
b. Employee contributions	Sch. H—2a(1)(B) & 2a(2) if applicable	Line 10a(1)(B) if applicable.
c. Gains (losses) from sale of assets	Sch. H—2c(4)(C)	Not applicable.
d. Earnings from investments	Sch. H—Subtract the sum of 2a(3) and 2c(4)(C) from 2d.	Line 10b.
8. Total plan expenses	Sch. H—2j	Line 10h.
9. Administrative expenses	Sch. H—2i(12)(C)	Line 10f.
10. Benefits paid	Sch. H—2e(4)	Line 10d.
11. Other Expenses	Sch. H—Subtract the sum of 2e(4) & 2i(12)(C) from 2j.	Line 10g.

PART 2590 —RULES AND REGULATIONS FOR GROUP HEALTH PLANS

■ 13. The authority citation for Part 2590 continues to read as follows:

Authority: 29 U.S.C. 1027, 1059, 1135, 1161–1168, 1169, 1181–1183, 1181 note, 1185, 1185a, 1185b, 1191, 1191a, 1191b, and 1191c; sec. 101(g), Pub. L.104–191, 110 Stat. 1936; sec. 401(b), Pub. L. 105–200, 112 Stat. 645 (42 U.S.C. 651 note); sec. 512(d), Pub. L. 110–343, 122 Stat. 3881; sec. 1001, 1201, and 1562(e), Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029; Secretary of Labor's Order 1–2011, 77 FR 1088 (Jan. 9, 2012).

Subpart C—Other Requirements

■ 14. Add §§ 2590.715–2715A and 2590.715–2717 to Subpart C to read as follows:

§ 2590.715–2715A Provision of additional information.

A group health plan that complies with the requirements of § 2520.103–1 of this Chapter and any implementing guidance (including filing any required schedules to the annual report required by § 2520.103–1) satisfies the requirements of PHS Act section 2715A, as incorporated in ERISA.

§ 2590.715–2717 Ensuring the quality of care.

A group health plan that complies with the requirements of § 2520.103–1 of this Chapter and any implementing guidance (including filing any required schedules to the annual report required by § 2520.103–1) satisfies the requirements of PHS Act section 2717, as incorporated in ERISA.

Signed at Washington, DC, this 20th day of June 2016.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

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Part III

Department of Labor

Employee Benefits Security Administration

29 CFR Parts 2520 and 2590

Department of Treasury

Internal Revenue Service

26 CFR Part 301

Pension Benefit Guaranty Corporation

29 CFR Part 4065
Proposed Revision of Annual Information Return/Reports; Proposed Rules

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Parts 2520 and 2590

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4065

RIN 1210–AB63

Proposed Revision of Annual Information Return/Reports

AGENCY: Employee Benefits Security Administration, Labor, Internal Revenue Service, Treasury, Pension Benefit Guaranty Corporation.

ACTION: Notice of proposed forms revisions.

SUMMARY: This document contains proposed changes to the Form 5500 Annual Return/Report forms, including the Form 5500, Annual Return/Report of Employee Benefit Plan (Form 5500 Annual Return/Report), and the Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500–SF). The annual returns/reports are filed for employee pension and welfare benefit plans under the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code (Code). The proposed revisions in this Notice reflect efforts of the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation (collectively Agencies) to improve employee benefit plan reporting for filers, the public, and the Agencies by modernizing financial information filed regarding plans; updating fee and expense information on plan service providers with a focus on harmonizing annual reporting requirements with the Department of Labor's final disclosure requirements enhancing mineability of data filed on annual return/reports; requiring reporting by all group health plans covered by Title I of ERISA, including adding a new Schedule J (Group Health Plan Information); and improving compliance under ERISA and the Code through selected new questions regarding plan operations, service provider relationships, and financial management of the plan. These revisions, which are being proposed in conjunction with a recompete of the ERISA Filing and Acceptance System (EFAST2) contract, if adopted, generally would apply for plan years beginning on or after January 1, 2019. EFAST2 is expected to begin processing the Plan Year 2019 Form 5500 Annual Return/Report beginning January 1, 2020. The proposed revisions would affect employee pension and welfare benefit plans, plan sponsors, administrators, and service providers to plans subject to annual reporting requirements under ERISA and the Code.

DATES: Written comments must be received by the Department of Labor on or before October 4, 2016.

ADDRESSES: To facilitate the receipt and processing of written comment letters on the proposed regulation, EBSA encourages interested persons to submit their comments electronically. You may submit comments, identified by RIN 1210–AB63, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow instructions for submitting comments.

Email: e-ORI@dol.gov. Include RIN 1210–AB63 in the subject line of the message.

Mail: Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: RIN 1210–AB63; Annual Reporting and Disclosure, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Hand Delivery/Courier: Office of Regulations and Interpretations, Employee Benefits Security Administration, Attn: RIN 1210–AB63; Annual Reporting and Disclosure, Room N–5655, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Instructions: All comments received must include the agency name and Regulatory Identifier Number (RIN) for this rulemaking (RIN 1210–AB63). Persons submitting comments electronically are encouraged not to submit paper copies. All comments received will be made available to the public, posted without change to *http://www.regulations.gov* and *http://www.dol.gov/ebsa*, and made available for public inspection at the Public Disclosure Room, N–1513, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mara S. Blumenthal, Employee Benefits Security Administration (EBSA), U.S. Department of Labor, (202) 693–8523, for questions relating to changes to the Form 5500, Form 5500–SF, Schedules A, C, D, G, and H, as well as the general reporting requirements under Title I of ERISA; Suzanne Bach, EBSA, U.S. Department of Labor, 202–693–8440, for questions relating to the collection of group health plan information; Leslie Larson, Internal Revenue Service (IRS), at the IRS taxpayer assistance answering service at 1–877–829–5500 (a toll-free number), for questions relating to Schedule R, Schedule E, as well as the general reporting requirements under Internal Revenue Code (Code); Steven Klubock, IRS, at 1–877–829–5500, for IRS questions relating to the Schedules MB and SB; and Grace Kraemer or Theresa Anderson, Pension Benefit Guaranty Corporation (PBGC), (202) 326–4000 for questions relating to Schedules MB and SB of the Form 5500, and Lines 14 and 19 of Schedule R, as well as questions relating to the general reporting requirements under Title IV of ERISA. For further information on an item not mentioned above, contact Ms. Blumenthal. The telephone numbers referenced above are not toll-free numbers, except as otherwise provided.

Customer service information: Individuals interested in obtaining information from the DOL concerning Title I of ERISA may call the EBSA Toll-Free Hotline at 1–866–444–EBSA (3272) or visit the DOL's Web site (*www.dol.gov/ebsa*).

SUPPLEMENTARY INFORMATION:

Sections 101 and 104 of Title I and section 4065 of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6057(b), 6058(a), and 6059(a) of the Internal Revenue Code of 1986 (Code), and related regulations, impose annual reporting and filing obligations on pension and welfare benefit plans, as well as on certain other entities. Plan administrators, employers, and others generally satisfy these annual reporting obligations by filing the Form 5500, Annual Return/Report of Employee Benefit Plan together with any required schedules and attachments (Form 5500 Annual Return/Report), or Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan (Form 5500–SF).[1] Specifically, filing of the

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[1] Certain one-participant plans and foreign plans that are not subject to the requirements of section 104(a) of ERISA are required to file Form 5500–EZ with the IRS on paper, or voluntarily file electronically using Form 5500–SF to satisfy certain annual reporting and filing obligations imposed by the Code. Beginning with the 2015 plan year, however, some filers are required to file their annual returns electronically using Form 5500–SF instead of filing a paper Form 5500–EZ if the filer is required to file at least 250 returns of any type with the IRS. See Treasury Regulations section

Form 5500 or, for eligible filers the Form 5500–SF, with any required schedules and attachments in accordance with the instructions and related regulations, constitutes compliance under Title I of ERISA with the applicable limited exemption, alternative method of compliance, and simplified reporting prescribed in 29 CFR 2520.103–1, *et seq.* Such filings will also satisfy an applicable plan administrator's annual reporting obligation under section 4065 of Title IV of ERISA. Filing of a Form 5500 or Form 5500–SF, together with the required attachments and schedules in accordance with the instructions, by plan administrators, employers, and certain other entities also satisfies the annual filing and reporting requirements under Code sections 6057(b), 6058(a) and 6059(a).[2]

The Form 5500 Annual Return/Report serves as the principal source of information and data available to the DOL, the IRS, and the PBGC (collectively the Agencies) concerning the operations, funding, and investments of approximately 806,000 pension and welfare benefit plans. These plans cover roughly 143 million workers, retirees, and dependents of private sector pension and welfare plans[3] with estimated assets of $8.7 trillion.[4] Accordingly, the Form 5500 Annual Return/Report is essential to each Agency's enforcement, research, and policy formulation programs. They are also an important source of information and data for use by other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies. The Form 5500 Annual Return/Report also serves as the primary means by which the operations of plans can be monitored by plan participants and beneficiaries and by the general public.

Generally, the Agencies have conducted a notice and comment rulemaking initiative to implement significant overhauls of the structure of the forms and schedules coincident with changes to the EFAST system. Past revisions to the forms and schedules have addressed changes to applicable law, changes in employee benefit plans and financial markets, and corresponding shifts in agency priorities and needs. The Agencies have also made changes to reduce costs and make filing and processing more efficient. In interim years, the Agencies have made other discrete changes as set forth annually in the "Changes to Note" section in the instructions, some of which have involved targeted rulemaking activity to implement reporting changes required by law.[5] The Agencies' last major tri-agency revision to the Form 5500 Annual Return/Report was proposed in 2006, 71 FR 41615 (Jul. 21, 2006), and finalized in 2007, effective for the 2009 form series. 72 FR 64731 (Nov. 16, 2007).

This forms revision proposal generally is being coordinated with a recompete of the contract for the ERISA Filing Acceptance System II (EFAST2)—the wholly electronic system operated by a private-sector contractor for the processing of Form 5500 Annual Return/Report. The majority of proposed forms revisions are currently targeted for implementation in the Plan Year 2019 Form 5500 Annual Return/Report. Development of EFAST changes pursuant to a new contract could begin in spring 2018, with processing under the new contract starting on January 1, 2020. However, this planned implementation timeline may be impacted if there are modifications to the recompete contract acquisition plan. As a result, some forms revisions may be implemented in earlier or later form years, including but not limited to the IRS and PBGC changes for 2016 as shown in the proposed data elements in Appendix A. To the extent changes are made separately from a more general implementation of the proposed revisions, the Agencies will seek appropriate clearance under the Paperwork Reduction Act of 1995 (PRA) to implement the changes in connection with any given year's forms.

The Agencies expect that the EFAST2 recompete would continue to deliver a user-friendly Web site, filing applications and web services, and contact center services similar to what is currently being provided. The existing EFAST2 web-based filing search application is expected to be enhanced and provided by EBSA. The Agencies expect that EFAST2 would continue to have the same or improved functionality and web services and is expected primarily to rely on existing EFAST2 software, components and logic. EFAST2 would continue to include a user-friendly web portal that provides registration, filing submission, filing acceptance, filing data dissemination, and help desk services.

As part of the comprehensive review of how well the Form 5500 Annual Return/Report serves to implement the existing employee benefit plan filing requirements under Titles I and IV of ERISA and under the Code, the Agencies have considered intervening changes to the legal and regulatory environment for employee benefit plans, plan sponsors, plan service providers and others since the last major revision of the Form 5500 Annual Return/Report. This includes implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376, (Jul. 21, 2010); statutory changes to ERISA and the Code relating to defined benefit pension plans in the Moving Ahead for Progress in the 21st Century Act (MAP 21) (Pub. L. 112–141); the Cooperative and Small Employer Charity Pension Flexibility Act (CSEC Act) (Pub. L. 113–98); the Highway and Transportation Funding Act (HATFA) (Pub. L. 113–159); the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113–235) (MPRA), and various regulatory actions adopted by the Agencies since the last major changes to the forms and instructions, including the DOL's final regulations at 29 CFR 2550.404a–5, 404c–5, and 408b–2.

In addition, the enactment of the Patient Protection and Affordable Care Act (Affordable Care Act)[6] expanded DOL's already growing oversight responsibilities with respect to the provision of group health benefits to workers in private sector employer-sponsored plans that provide group health benefits (also referred to herein as "group health plans"). In that regard,

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301.6058–2 for more information on mandatory electronic filing of employee retirement benefit plan returns.

[2] Some filing requirements under these provisions are not within the scope of this Notice. For example, multiple employer welfare arrangements and certain entities claiming exception are required to file with the DOL the Form M–1 (Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)).

[3] Source: U.S. Department of Labor, EBSA calculations using the March 2014 Current Population Survey Annual Social and Economic Supplement and the 2013 Medical Expenditure Panel Survey.

[4] EBSA projected ERISA covered pension, welfare, and total assets based on the 2013 Form 5500 Annual Return/Report filings with the U.S. Department of Labor (DOL), reported SIMPLE assets from the Investment Company Institute (ICI) Report: The U.S. Retirement Market, Second Quarter 2015, and the Federal Reserve Statistical Release Z.1 Financial Accounts of the United States (Sept. 18, 2015).

[5] *See, e.g.,* Revisions to Annual Return/Report—Multiple-Employer Plans, Interim Final Rule, 79 FR 66617 (Nov. 10, 2014); Filings Required of Multiple Employer Welfare Arrangements and Certain Other Related Entities, Final Rule, 78 FR 13781 (Mar. 1, 2013).

[6] The Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010, and the Health Care and Education Reconciliation Act of 2010, Public Law 111–152, was enacted on March 30, 2010. These statutes generally are collectively known as the "Affordable Care Act."

the DOL has re-evaluated the existing reporting scheme for group health plans, which scheme was established well before the enactment of the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191, 110 Stat. 1936 (Aug. 21, 1996); Title I of the Genetic Information Nondiscrimination Act of 2008, Public Law 110–233, 122 Stat. 881 (May 21, 2008); the Mental Health Parity Act of 1996, Public Law 104–204, 110 Stat. 2944 (Sept. 26, 1996) and the Mental Health Parity and Addiction Equity Act of 2008, Public Law 110–343, 122 Stat. 3881 (Oct. 3, 2008); the Newborns' and Mothers' Health Protection Act of 1996, Public Law 104–204, 110 Stat. 2935 (Sept. 26, 1996); the Women's Health and Cancer Rights Act of 1998, Public Law 105–277, 112 Stat. 2681–436 (Oct. 21, 1998); and Michelle's Law, Public Law 110–381, 122 Stat. 4081 (Oct. 9, 2008), as well as the Affordable Care Act.

After reviewing the existing reporting scheme and the DOL's experience with oversight and enforcement, the DOL determined that, in order for it to more effectively fulfill its responsibilities under the expanded requirements under these laws, all plans that provide group health benefits should be subject to some level of annual reporting, with a focus on compliance issues. As described in more detail below, under the proposal, those plans that provide group health benefits that are already required to file a Form 5500 Annual Return/Report—generally all large plans and small plans that are funded with a trust or that are otherwise not eligible for the annual reporting relief for unfunded and insured plans—would have to file group health plan information on a new separate schedule (Schedule J (Group Health Plan Information)), as well as complete those elements of the Form 5500 and schedules that those plans are already required to complete, as modified by this proposal. Plans that provide group health benefits that have fewer than 100 participants currently exempt from filing an annual report under 29 CFR 2520.104–20 because they are either completely "unfunded" or partially insured and partially unfunded now would be required to file a Form 5500 (except for those questions applicable only to pension plans) and the new Schedule J. Under the proposal, plans that provide group health benefits that have fewer than 100 participants that currently are exempt from annual reporting under 29 CFR 2520.104–20 because they are fully insured would be required to file with answers to certain questions on the Form 5500 and the Schedule J.

Certain information collection requirements imposed under the Code, but not required under ERISA, had to be removed from the Form 5500 Annual Return/Report when DOL implemented its EFAST2 electronic filing requirement beginning with the 2009 Form 5500 Annual Return/Report. The Code did not permit the IRS to mandate electronic filing of "IRS-only" components of the Form 5500 Annual Return/Report with respect to filers of fewer than 250 returns, and regulations did not mandate such electronic filing with respect to any filers. Specifically, Schedules E, P, SSA, and T were not included in the 2009 Form 5500 Annual Return/Report. Some of those information collection requirements can now be added back to the Form 5500 Annual Return/Report. On September 29, 2014, the Treasury Department issued final regulations under Code sections 6058 and 6059 mandating electronic filing of the Form 5500 Annual Return/Report (including actuarial schedules) for certain filers. T.D. 9695, 79 FR 58256 (Sept. 29, 2014). In general, 26 CFR 301.6058–2 provides that, in order to satisfy the filing requirements of Code section 6058, a Form 5500 Annual Return/Report must be filed electronically if the filer is required to file at least 250 returns of any type during the calendar year that includes the first day of the applicable plan year. Similarly, 26 CFR 301.6059–2 provides in general that, in order to satisfy the filing requirements of Code section 6059, actuarial reports filed with a Form 5500 Annual Return/Report must be filed electronically by filers required to file at least 250 returns during that calendar year. The regulations are generally effective for plan years beginning on or after January 1, 2015, but only for filings with a filing deadline (not taking into account filing extensions) after December 31, 2015.

Finally, the Agencies took into account recommendations in reports from the Government Accountability Office (GAO), the DOL's Office of Inspector General (DOL–OIG), the United States Treasury Inspector General for Tax Administration (TIGTA), and the ERISA Advisory Council that have been issued since the last major revision of the Form 5500 Annual Return/Report information collection requirements in connection with the 2009 return/report. *See, e.g., U.S. Gov't Accountability Office, GAO–10–54, Private Pensions: Additional Changes Could Improve Employee Benefit Plan Financial Reporting* (2009) (available at *www.gao.gov/assets/300/298052.pdf*); *U.S. Gov't Accountability Office, GAO–14–441, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information* (2014) (available at *www.gao.gov/products/GAO-14-441*); 2013 *ERISA Advisory Council Report: Private Sector Pension De-risking and Participant Protections, Dep't of Labor,* (available at *www.dol.gov/ebsa/publications/2013ACreport2.html*); *Dep't of Labor Office Of Inspector Gen., 05–14–003–12–12, EBSA Could Improve Its Usage of Form 5500 Data* (2014) (available at *www.oig.dol.gov/public/reports/oa/2014/05-14-003-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–14–92, Private Pensions: Clarity of Required Reports and Disclosures Could Be Improved* (2013) (available at *www.gao.gov/assets/660/659211.pdf*); *U.S. Gov't Accountability Office, GAO–14–92, Private Pensions: Clarity Of Required Reports And Disclosures Could Be Improved, Report to Congressional Requesters* (2013) (available at *www.gao.gov/assets/660/659211.pdf*); *U.S. Dep't of Labor Office of Inspector Gen., 09–13–001–12–121, Employee Benefits Security Administration Needs to Provide Additional Guidance And Oversight to ERISA Plans Holding Hard-to-Value Alternative Investments* (2013) (available at *www.oig.dol.gov/public/reports/oa/2013/09-13-001-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–12–665, Private Sector Pensions: Federal Agencies Should Collect Data and Coordinate Oversight of Multiple-employer Plans* (2012) (available at *www.gao.gov/assets/650/648285.pdf*); *U.S. Dep't of Labor Office Of Inspector Gen., 09–12–002–12–121, Changes Are Still Needed In The ERISA Audit Process To Increase Protections For Employee Benefit Plan Participants* (2012) (available at *www.oig.dol.gov/public/reports/oa/2012/09-12-002-12-121.pdf*); *U.S. Gov't Accountability Office, GAO–12–325, 401(K) Plans: Increased Educational Outreach and Broader Oversight May Help Reduce Plan Fees* (2012) (available at *www.gao.gov/products/GAO-12-325*); *U.S. Gov't Accountability Office, GAO–08–692, Defined Benefit Plans: Guidance Needed to Better Inform Plans of the Challenges and Risks of Investing in Hedge Funds and Private Equity* (2012) (available at *www.gao.gov/products/GAO-08-692*); *Treasury Inspector Gen. for Tax Administration, The Employee Plans Function Should Continue Its Efforts to Obtain Needed Retirement Plan Information* (2011) (available at *www.treasury.gov/tigta/auditreports/2011reports/*

201110108fr.pdf); *2011 ERISA Advisory Council Report: Hedge Funds and Private Equity Investments, Dep't of Labor,* (available at *www.dol.gov/ebsa/publications/2011ACreport3.html*); *2013 ERISA Advisory Council Report: Locating Missing and Lost Participants, Dep't of Labor,* (available at *www.dol.gov/ebsa/publications/2013ACreport3.html#2*); *2010 ERISA Advisory Council Report: Employee Benefit Plan Auditing and Financial Reporting Models, Dep't of Labor,* (available at *www.dol.gov/ebsa/publications/2010ACreport2.html*); *2008 ERISA Advisory Council Report: Working Group on Hard-to-Value Assets and Target Date Funds, Dep't of Labor,* (available at *www.dol.gov/ebsa/publications/2008ACreport1.html.*)

The DOL also is publishing elsewhere in today's **Federal Register** a Notice of Proposed Rulemaking with proposed amendments to the annual reporting regulations at Part 2520 of Chapter XXV of Title 29 of the Code of Federal Regulations to implement certain proposed Form 5500 Annual Return/Report changes under Title I of ERISA. To avoid unnecessary duplication of effort, public comments submitted in response to this Notice of Proposed Forms Revisions will be treated as public comments on the Notice of Proposed Rulemaking to the extent they include information relevant to the proposed regulatory amendments.

Although the Agencies' historical practice of undertaking major updates of the Form 5500 Annual Return/Report generally has coincided with the move to and upgrades of the EFAST processing system, the Agencies also engage in an annual update process of the forms, schedules, and instructions. Some annual changes that are anticipated to be implemented by the IRS and the PBGC in connection with the 2016 plan year forms are discussed below. Those changes and other annual updates have involved, or may in the future involve, separate public notice and comment processes, for example, under the Paperwork Reduction Act (PRA). The Agencies intend that any annual update changes adopted during the pendency of the changes proposed in this Notice will be incorporated into what is published as part of the Notice of Final Forms Revisions as part of this process.[7]

As with previous major forms revisions cycles, the Agencies anticipate actively engaging in outreach and education regarding the forms revisions well in advance of the plan year for which the majority of the revisions would be effective.

II. Appendices

A. Data Elements for Forms and Schedules

Appendix A shows the questions/data elements that are on each form and schedule in the line-by-line sequence the items would appear on that form and schedule, as well as newly "structured" attachments, rather than showing mock-ups of "final" forms, schedules, and structured attachments. The Agencies expect that the final forms and schedules will have substantially the same format as the existing forms and schedules.[8] The lists of data elements for each individual form, schedule, and "structured" attachment to the Schedule H, show all of the questions that would appear on that form, schedule, or attachment—current questions, renumbered questions, revised questions, and new questions. The data elements are numbered in the sequence that the Agencies would expect to use in the final version of the forms and schedules. Next to the data elements, the Agencies have, to the extent feasible, indicated in brackets:

(1) "[Current]" if it is the same question with the same line number on both the proposal and the current form or schedule;[9] "[Current (2016)]" indicates IRS changes and/or PBGC changes that would first be made part of the forms and schedules for the 2016 form year, respectively.

(2) "[Current Line X]" if the item is already on the form or schedule, but is renumbered in the proposal, to show where the item appears on the current form or schedule;

(3) "[Current with revisions]" to indicate, with a short explanation, that the item is already on the form or schedule, but would be revised; and

(4) "[New]" if the item is a new question or new to that form or schedule.

Dates generally are shown in the data element sheets (as well as the instructions) as "20XX" for the Form filing year; "20XX–1" for the prior year, etc.

The Agencies believe this approach of showing the intended changes to the wording of the data elements, but not providing a "mock up" of the forms and schedules, will reduce costs associated with publication of the proposed form changes in the **Federal Register** and provide greater flexibility for the related EFAST2 development processes. The Agencies also believe that this approach (*i.e.,* taking the questions out of the disclosable form structure), gives a better opportunity to review the format, sequencing, and grouping of how the information would be asked and entered on each of the forms and schedules and how it ultimately could potentially be better presented for disclosure purposes. The Agencies seek comments on whether reordering or regrouping questions on the Form 5500 and schedules could enhance presentation of the information for disclosure purposes or minimize burden from a data-gathering, data-entry, recordkeeping, or other perspective, as well as suggestions on the structure or appearance of the forms as both on-line and printed documents.

B. Proposed Instructions for Form 5500 Annual Return/Report

Appendix B to this document shows the proposed instructions for the Form 5500 and its schedules. The proposed instructions include possible additional instructions and definitions for existing line items, as well as instructions for new items, and the proposed instructions reflect the elimination of current instructions for existing line items or schedules that would be deleted under the proposal. The Agencies expect that the revised instructions for the year in which the majority of the proposed forms changes are implemented, which will be generally coincident with the contracting and procurement process for EFAST2, will also reflect changes in intervening years, changes to law, and any needed additional clarifications and interpretations to the instructions for existing and proposed line items, as well as changes made in response to comments on the proposal. For ease of use by the different types of filers and to eliminate the need for the footnotes and exceptions in the current single

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[7] Minor changes not requiring notice and comment rulemaking or system changes or changes required by enactment of new laws may also be made between the publication of the Notice of Final Forms Revisions and the date when the revised forms, schedules, and instructions are available for e-filing through EFAST2.

[8] The Agencies intend to publish mock-ups of the forms on the DOL's Web site as part of the third party software developer certification process and in furtherance of public education efforts about the changes to be implemented.

[9] The Agencies used the 2015 forms, schedules, and instructions as the "current" form version. With respect to IRS-only changes, the changes for 2016 that appear in the notice published by the IRS under the PRA, 81 FR 18687 (Mar. 31, 2016), are used in the proposed data elements and instructions and are so labeled, instead of showing the changes in the information collection under the Code that appear on the 2015 Form 5500 series, which the IRS has directed filers not to answer. See IRS Compliance Questions on the 2015 Form 5500 Series Returns (*https://www.irs.gov/Retirement-Plans/IRS-Compliance-Questions-on-the-2015-Form-5500-Series-Returns*).

"Quick Reference Chart," the Agencies propose separate charts for the various types of filers (pension plans, direct filing entities (DFEs), group health plans, and welfare plans other than group health plans). These charts appear at the end of Appendix B (Form 5500 Annual Return/Report Instructions). The Agencies believe this proposed change should help filers focus on the specific requirements applicable to the type of plan or entity for which the Form 5500 Annual Return/Report is being filed.

OMB Control Numbers, PRA Notice, and up to date Business Codes are not shown here, but will continue to be included in both the Form 5500 Annual Return/Report and Form 5500–SF instructions published on the EFAST2 Web site for the form year(s) in which the changes are implemented.

C. Proposed Instructions for Form 5500–SF

Appendix C to this document shows the proposed instructions for the Form 5500–SF.

III. Request for Comments

The Agencies believe that the modernization and restructuring of the Form 5500 Annual Return/Report being proposed in this Notice would support the Agencies' ability to implement strong and effective enforcement programs and better respond to inquiries from plan participants and beneficiaries, employers, other plan sponsors, and the public regarding employee benefit plans. Further, the Agencies believe that the proposed revisions would help them more effectively develop and implement regulations and other compliance assistance guidance, and use data for purposes of economic research, policy formulation, and monitoring benefits related developments and activities among ERISA-covered employee benefit plans.

The Agencies generally invite comments and suggestions as to other alternative solutions and whether and how such alternatives would be more, or less, beneficial compared to the proposed changes to the forms, schedules, and instructions. Commenters are asked to take into account the costs and burdens to plans, participants and beneficiaries, plan fiduciaries, plan service providers, and other affected parties, in commenting on the proposed annual reporting changes, including any suggested alternatives.

The request for comments includes areas on the existing forms, schedules, and instructions that the Agencies have not proposed changing, but which may benefit from further guidance, especially with regard to how an existing provision or instruction would apply for a particular segment of the filing population.

IV. Discussion of Proposed Changes

The proposed revisions in this Notice reflect priorities of and efforts by the DOL, IRS, and PBGC to improve reporting for filers and the public, other governmental users, as well as the Agencies by: (1) Modernizing financial information filed regarding plans; (2) updating fee and expense information on plan service providers, with a focus on harmonizing annual reporting requirements with the DOL's final disclosure requirements at 29 CFR 2550.408b–2; (3) enhancing mineability of data filed on annual return/reports; (4) requiring reporting by all group health plans covered by Title I of ERISA, including adding a new Schedule J (Group Health Plan Information); and (5) improving compliance under ERISA and the Code through selected new questions regarding plan operations, service provider relationships, and financial management of the plan. The changes in this proposal to the forms, schedules, instructions, and DOL regulatory exemptions and requirements are intended to further these objectives.

A. Modernize Financial and Plan Operations Information

An overriding objective of these proposed forms revisions is to modernize the Form 5500 Annual Return/Report financial information collection so that the presentation of plan trust financial and balance sheet information better reflects the investment portfolios and asset management practices of employee benefit plans. The basic objective of general purpose financial reporting is to provide information about the reporting entity for the Agencies' enforcement, research, and policy formulation programs; to assist other federal agencies, Congress, and the private sector in assessing employee benefit, tax, and economic trends and policies; and to assist plan participants and beneficiaries and the general public in better monitoring the activities and investments of employee benefit plans.

The financial statements contained in the current Schedule H (Large Plan Financial Information) and Schedule I (Small Plan Financial Information) are based on data elements that have remained largely unchanged since the Form 5500 Annual Return/Report was established in 1975. Over the past four decades, the U.S. private pension system has shifted from defined benefit (DB) pension plans toward defined contribution (DC) pension plans, often participant-directed 401(k)-type DC pension plans. The financing of retirement benefits has changed dramatically coincident with the shift from DB to DC pension plans. In 1978, when legislation was enacted authorizing 401(k) plans that allow employees to contribute to their own retirement plan on a pre-tax basis, participants contributed only 29 percent of the contributions to DC pension plans and only 11 percent of total contributions to both DB and DC pension plans. "In the years following 1978, employee contributions to DC pension plans steadily rose to a peak of approximately 60 percent in 1999, where it has remained." *See Dep't of Labor, Private Pension Plan Bulletin Abstract of 2012 Form 5500 Annual Reports,* at 1 (2015). Simultaneously, the number of single-employer DB pension plans has decreased from 92,000 in 1990 to just under 29,000 single-employer pension plans in 2009. *See U.S. Gov't Accountability Office, GAO–09–291, Defined Benefit Pensions: Survey Results of the Nation's Largest Private Defined Benefit Plan Sponsors Highlights* (2009) (available at *http://www.gao.gov/new.items/d09291.pdf*).

The shift from DB pension plans to DC pension plans has led to increased responsibility for participants to manage their own retirement savings, which includes having to select among investment options in their retirement plans. *See Private Pension Plan Bulletin Abstract Of 2012 Form 5500 Annual Reports,* at 2 (Of the 516,000 section 401(k)-type plans in 2012, 87.8 percent allowed participants to direct investment of all of their assets, and 3.1 percent allowed participants to direct investment of a portion of their assets.) The need for more relevant and comparable financial information is not limited to 401(k) and other DC pension plans; it also extends to DB pension plans. Reports from GAO, the DOL–OIG, the ERISA Advisory Council, and the TIGTA also have focused on the need for increased transparency and accountability generally in connection with employee benefit plan investments in hard-to-value and alternative assets, as well as assets held through pooled investment vehicles.

1. Changes to Schedule H (Financial Information)—Balance Sheet and Income Statement

Section 103 of ERISA requires plans to include in their annual report a statement of assets and liabilities of the plan, aggregated by categories and reported at current value. It also requires plans to report a statement of earnings (losses) and expenses. Although the Form 5500 Annual Return/Report has undergone major revisions since its initial implementation in 1975, there has been little change to the basic balance sheet and income statement information on the Form 5500 Annual Return/Report since the return/report was first established. Under the proposal, Schedule H, Parts I and II, would retain the essential asset/liability and income/expense structure of the current reporting requirement. The Agencies are proposing, however, to modify the asset breakouts on the balance sheet component of the Schedule H to enable more accurate and detailed reporting on the types of assets held by a plan, including alternative investments, hard-to-value assets, and investments through collective investment vehicles. The proposed changes take into account the fact that many of these more sophisticated and complex investments do not fit neatly into any of the existing reporting categories. As a result, filers inconsistently report on the various existing categories, and important financial information is obscured by consolidation of many diverse investments into the catch-all "other" category on the balance sheet on the Schedule H. The proposal would also update the income/expense statement of the Schedule H to get a better picture of earnings and expenses associated with plan investments and operations.

In addition to the Agencies' assessment that Form 5500 Annual Return/Report financial reporting would benefit from improved transparency and accountability, the proposal to change the asset categories on the Schedule H balance sheet is supported by recent reports from both the GAO and the DOL–OIG. The GAO has noted that the plan asset categories on the Schedule H are not representative of current plan investments and provide little insight into the investments themselves, the level of associated risk, or the structures of these investments. *GAO–14–441, Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 11–12. The proposed changes to the Schedule H also are consistent with the DOL–OIG recommendation that the Form 5500 Annual Return/Report be revised to improve reporting of hard-to-value and alternative investments. *U.S. Dep't of Labor Office of Inspector Gen., 09–13–001–12–121, Employee Benefits Security Administration Needs to Provide Additional Guidance And Oversight to ERISA Plans Holding Hard-To-Value Alternative Investments,* at 4, 19.

Accordingly, the Agencies are proposing the following changes to the Schedule H balance sheet and income statement. Current Line 1a, "total noninterest bearing cash," would be reported as a breakout element under General Investments. This would also result in Line 1b "Receivables" and Line 1c "General Investments" being renumbered as Lines 1a and 1b respectively. Participant loans would continue to be reported as a separate line item, but would be reported as a breakout element under renumbered Line 1a as a "receivable" rather than under its current reporting classification under the heading "General Investments." This change is responsive to amendments made to "Generally Accepted Accounting Principles" (GAAP) by the Financial Accounting Standards Board (FASB), which required participant loans to be classified as notes receivable from participants. *See Financial Accounting Standards Board, No. 2010–25, Plan Accounting—Defined Contribution Pension Plans* (Topic 962) (2010). As notes receivable, participant loans would continue to be reported at their unpaid principal balance plus any accrued but unpaid interest.

Under proposed Line 1b (currently Line 1c) "General Investments," the Agencies would add both new categories and new breakouts within existing categories. Cash and cash equivalents would be the first category under "General Investments." As indicated above, "noninterest bearing cash (such as cash on hand or cash in a non-interest bearing checking account)" would no longer be separated from "General Investments." Instead it would be a sub-breakout under "cash and cash equivalents." The category would also have sub-breakouts for interest bearing cash (assets that earn interest in a financial institution account such as interest bearing checking accounts, passbook savings accounts, or money market bank deposit accounts). While the breakouts are new, the information is already required to be reported on current Line 1c(1).

The next category under "General Investments," would continue to be for reporting "Debt Interests/Obligations." The Form 5500 Annual Return/Report currently provides little in the way of detail or transparency about the range of plan investments in bonds, loans, and other debt instruments and obligations. For example, a single line item for "other loans" on the Schedule H currently covers, as indicated in the Form 5500 Annual Return/Report instructions, the value of loans for construction, securities loans, commercial and/or residential mortgage loans that are not subject to Code section 72(p), and other miscellaneous loans. *See, e.g.,* 2015, Schedule H, Form 5500 Annual Return/Report Instructions.

The general debt heading, as proposed, would keep the existing breakout for corporate debt instruments. Breakouts under that category, however, would be investment grade debt and high-yield debt, rather than "preferred" and "all other," as on the current Schedule H. This change is intended to have the Schedule H financial information for all reporting plans regarding corporate debt instruments correspond to the more detailed financial information on Schedule R for defined benefit pension plans that have 1,000 participants or more. In addition, U.S. government securities would be broken out from other government securities. The instructions for the current forms advise filers to report such investments on the Schedule H financial statements in "Other" debt instruments. This proposal, however, includes more investment categories on the Schedule H to improve transparency from the current "other" categories. For example, there would be a breakout for other loans (other than loans to participants), exchange traded notes, and asset backed securities (other than real estate),[10] and debt obligations associated with real property would be reported under the real property category, rather than generally under "Other Debt Obligations." Thus, with respect to reporting such leveraged or collateralized transactions on the balance sheet portion of Schedule H, filers would be advised in the instructions to account for such transactions in the appropriate asset category in accordance with the individual characteristics of the investment.

The next category under "General Investments" would continue to be "Corporate Stocks." Under the corporate securities category, filers would still distinguish between "preferred" and

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[10] The SEC similarly is working towards more transparency with regard to some of these assets. *See Securities and Exchange Commission, Asset-backed Securities Disclosure and Registration,* 79 FR 57,184 (Sept. 24, 2014). FINRA has also published an Investor Alert related on exchange traded notes to increase investor awareness of the associated risks. *See Exchange-Traded Notes: Avoid Unpleasant Surprises,* FINRA, *www.finra.org/Investors/ProtectYourself/InvestorAlerts/TradingSecurities/P131262. See also U.S. Gov't Accountability Office, GAO–12–324, Recent Developments Highlight Challenged Of Hedge Fund And Private Equity Investing* (2012) (discussing plan investment in distressed debt).

"common" stock for reporting direct holdings of corporate securities. There would be new breakouts, however, for "publicly traded" and "non-publicly traded" securities under both the "preferred" and "common" stock elements. This proposed change is intended to present a more complete picture of plan investments in hard-to-value assets.

The existing reporting line items for certain collective investment vehicles that are treated as holding plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101 (*i.e.*, bank common or collective trusts (CCTs), insurance company pooled separate accounts (PSAs), entities meeting the conditions of DOL regulation 29 CFR 2510.103–12 (103–12 IEs), and master trusts) generally would be retained, but grouped together for reporting under a new category entitled "Eligible Pooled Investment Funds (Other Than Registered Investment Companies)." To increase transparency and improve the quality of data collected across various components of the Form 5500 Annual Return/Report, the proposal would significantly reconfigure existing reporting of assets held through the various types of pooled investment vehicles that have plan assets.

Under the proposal, a plan's investments in CCTs and PSAs would be reported in the aggregate on single line items for each vehicle type on the Schedule H Line 1b balance sheet information regardless of whether the CCT or PSA files a Form 5500 Annual Return/Report as a DFE. This is a change from the current rule that has filers break out the underlying assets in the respective line items on the Schedule H balance sheet under "general investments" if the CCT or PSA has not filed a Form 5500 Annual Return/Report and in the aggregate on the CCT or PSA line if the Form 5500 Annual Return/Report has been filed. Instead, as discussed in more detail below, the Line 4i(1) Schedule of Assets held for Investment of either the plan or the CCT or PSA, depending on whether the CCT or PSA has filed, would be where the breakout of underlying assets would be reported.

With respect to 103–12 IE reporting on Schedule H, the proposal generally continues the existing reporting requirements. Specifically, similar to the requirements for plans that invest in CCTs and PSAs, a plan that invests in an entity that files as a 103–12 IE would, in identifying each individual 103–12 IE on the Line 4i Schedules of Assets, have to include the value of the plan's investment in each 103–12 IE.

Reporting regarding investments in master trusts by plans and reporting by master trusts, as described in more detail below, would be substantially revised, including reporting on the plan's asset and liability statements on Schedule H, Part I. Specifically, as they did prior to 1999, plans would report their total holdings in master trusts on Schedule H, Line 1b, on an aggregate basis, and the reporting concept of the master trust investment account (MTIA) would be eliminated. The participating plans' fractional interest in the various holdings of the master trust (which currently are reflected in the MTIA Form 5500 Annual Return/Report) now would be shown on the various plans' Schedule H, Line 4i(1) Schedule of Assets Held for Investment at End of Year and Line 4i(2) Schedule of Assets Disposed of During the Plan Year, as well as on the filings by the master trust itself.

The DOL views the proposed changes to annual reporting regarding these pooled investment vehicles as important and necessary in light of the large amount of plan assets (an estimated $1.1 trillion) held by CCTs, PSAs, master trusts, and 103–12 IEs. *See U.S. Gov't Accountability Office, GAO 12–121, Limited Scope Audits Provide Inadequate Protections To Retirement Plan Participants,* at 1 (2014).

As part of the focus on better reflecting and understanding how plans are investing, the Agencies also propose to replace the single line existing category entitled "Value of Interest in Funds Held in Insurance General Accounts (Unallocated Contracts)" by adding breakouts of various types of unallocated contracts. The proposal would add to the existing general category breakouts for deposit administration, immediate participation guarantees, guaranteed investment contracts, and "other" unallocated insurance contracts. These classes of contracts parallel the existing Schedule A reporting on insurance contracts with unallocated funds. Comments are specifically solicited on whether this breakout is sufficient or whether the value of investments in other or additional classes of insurance contracts, such as variable annuity contracts,[11] should be listed on the Schedule H.

The Agencies are also proposing changes to the existing category entitled, "Partnership/Joint Venture Interests." To clarify the reporting of these general partnership and joint venture investments, new sub-categories are being added to report the value of interest in "limited partnerships," "venture capital operating companies (VCOCs)," "private equity," "hedge funds," and "other partnership/joint venture interests." The Agencies' proposal was informed by the GAO's findings that there was a need for more detail on plan investment in hedge funds and private equity funds due to substantial increases in the percentage of plans investing in hedge funds and private equity. *U.S. Gov't Accountability Office, GAO–12–324, Recent Developments Highlight Challenges With Hedge Fund And Private Equity Investing,* at 19 (2012). In making this recommendation, GAO acknowledged that although there is no universally accepted definition, the term "hedge fund" is commonly used to describe pooled investment vehicles that are privately organized and administered by professional managers who engage in active trading of various types of securities, commodity futures, options contracts, and other investment vehicles, including relatively illiquid and hard-to-value investments. Similarly, "private equity fund" is commonly used to describe privately managed pools of capital that invest in companies that typically are not listed on a stock exchange. *See, e.g., 2011 ERISA Advisory Council Report: Hedge Funds and Private Equity Investments* (noting that plan sponsors have increased investment of defined benefit pension plan assets in hedge funds and/or private equity funds due to the need to increase diversification, decrease volatility, and enhance the plan's overall performance). The Agencies specifically invite comments on whether these definitions are adequate for purposes of Form 5500 Annual Return/Report financial reporting.

In addition, because investments in the "Partnership/Joint venture interests" may or may not be holding plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101, the Agencies are proposing an off-balance sheet item in this category where filers would indicate the total value of such investments that are plan asset vehicles and those that are not.

The real estate category on the Schedule H balance sheet would be expanded and include sub-categories to include investments in particular types of assets or pooled investment funds designed to invest primarily in real estate or real estate mortgages. In the Agencies' view, the current reporting requirements do not accurately reveal the extent and type of a plan's real estate and related holdings. The proposed new breakouts are: Developed real property (other than employer real property), undeveloped real property (other than employer real property), real estate investment trusts (REITs), mortgage-backed securities (including collateralized mortgage obligations (CMOs)), real estate operating companies (REOCs), and "Other" real estate related investments. Adding these breakouts is consistent with the Agencies' objective of improving reporting on investments that constitute alternative or hard-to-value assets. *See OECD/IOPS Good Practices on Pension Funds' Use of Alternative Investments and Derivatives,* OECD, (available at *http://www.oecd.org/finance/private-pensions/oecdiopsgoodpracticesonpensionfundsuseofalternativeinvestmentsandderivatives.htm.*) Creating more specific categories also should help address concerns about inconsistencies in real property reporting cited by the report, *GAO Targeted Revisions Could Improve Usefulness Of Form 5500 Information,* at 10.

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[11] As discussed below, the proposal would add new questions to Schedule A regarding variable annuities.

A significant new reporting category is for investments in derivatives. The sub-categories in the derivatives category would be futures, forwards, options, swaps, and "Other." As in the other general categories, filers would enter a description for assets listed as "Other." Obtaining more specific information about the extent to which plans are engaged in hedging or in the listed types of derivative transactions would help address concerns raised by the GAO about limitations on usefulness of data on investments in derivatives under the current reporting structure. *See generally U.S. Gov't Accountability Office, GAO–08–692, Defined Benefit Plans: Guidance Needed To Better Inform Plans Of The Challenges And Risks Of Investing In Hedge Funds And Private Equity,* at 25, 42–43 (expressing specific concerns about the way in which pension plans report investments in derivatives and suggesting that plan sponsors are currently reporting these types of investments in various different categories on the Schedule H, limiting the usefulness of the data.)

The Agencies are also proposing a new category for foreign investments with breakouts to separately report holdings of foreign equities and debt interests. The Agencies propose that, for this reporting purpose, foreign equities would include American Depository Receipts, U.S.-traded foreign stocks and stocks traded on foreign markets. Foreign debt would include both long-term and short-term foreign debt investments, but would not include for purposes of a Form 5500 Annual Return/Report such foreign securities held through U.S. registered investment funds or exchange traded funds, CCTs, PSAs, 103–12 IEs, or master trusts. There also would be subcategories for foreign real estate, currency, and "Other," with a description required for anything reported in the "Other" category.

The Agencies also are proposing a new asset category on the Schedule H, "Tangible Personal Property," which category currently appears on the Schedule I, but not on the Schedule H. Under the proposal, the Schedule H would list on its face the main types of assets as reportable in this category, *i.e.* direct investments in tangible personal property, with sub-categories for collectibles, precious metals, and "Other." There would also be a separate breakout category for commodities, which would be divided into "Precious Metals" and "Other." Moving this category from the Schedule I to the Schedule H for all filers required to complete the Schedule H, including former Schedule I filers, would add transparency to these plan investment holdings. To the extent plans have direct investments in tangible personal property and commodities (as opposed to futures contracts or exchange traded funds), they are likely to be reported unhelpfully from a transparency perspective as "Other" on the existing Schedule H.

Finally, the Agencies propose making reporting more transparent for assets held through participant-directed brokerage accounts. The proposal generally follows the same breakout requirements as the current rules. The current rules provide that assets held through participant-directed brokerage accounts may be reported either: (1) As individual investments in the applicable asset and liability categories in Part I and the income and expense categories in Part II, or (2) by including on the "Other" lines (Line 1c(15) on the balance sheet and 2c on the income statement) the total aggregate value of the assets and the total aggregate investment income (loss) before expenses, provided the assets are not loans, partnership or joint venture interests, real property, employer securities, or investments, including derivatives, that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction. Under the proposal, filers would provide the total current value of all assets held through participant-directed brokerage accounts, except there would be separate sub-totals for brokerage account investments in tangible personal property, loans, partnership or joint venture interests, real property, employer securities, and investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction. The current Form 5500 Annual Return/Report reporting rules already require that these types of assets be reported separately from other participant-directed brokerage account assets, similar to the reporting rules for investments in CCTs and PSAs that do not file their own Form 5500 Annual Return/Report. On the proposed Line 4i Schedules of Assets, assets held through a participant-directed brokerage account would be permitted to be reported in the aggregate as a single asset held directly by the plan. The broker would be identified as the issuer/borrower/etc. In the element requiring the filer to indicate on what line the assets were reported on Line 1b, the filer would enter all the subcategories for types of investments held through a participant-directed brokerage account.

The Agencies considered requiring filers to break out all assets held through a participant-directed brokerage account on the Line 4i Schedules of Assets. The Agencies also considered continuing to require filers to break out those specific assets that are currently required to be broken out on Line 1c. For example, the Agencies considered requiring a breakout of information on whether participants are investing in alternative and hard-to-value assets through participant-directed brokerage accounts. The Agencies determined, on balance, considering the benefits to the information and the relative potential burden, that having on the proposed balance sheet (Line 1b) a general breakout of asset types held through participant-directed brokerage accounts would be sufficient, and that details of each individual asset so held would not be required.

The proposal to continue to allow filers to report assets held in participant-directed brokerage accounts in the aggregate is intended to be responsive to comments on the DOL's Request for Information, Question 38, 79 FR 49469, 49473 (Aug. 14, 2014) (RFI), which specifically asked whether changes should be made to the Schedule H to require more detail about investments made through brokerage windows. While some commenters on the RFI thought it made sense for the DOL to consider changes to the Form 5500 Annual Return/Report with respect to brokerage windows, others were concerned about the burden and costs such changes would impose on sponsors and participants and were unclear about the relative benefit of more information. The Agencies do not believe that there would be a substantial additional burden imposed by requiring aggregate participant-directed brokerage account assets to be reported separately instead of the current practice of reporting such assets in the catch-all "Other" category. Similarly, the Agencies believe that there would not be a substantial burden change in the proposed requirement to break out, on the Line 4i Schedules of Assets, the types of investments held in participant-directed brokerage accounts that are not eligible for aggregated reporting under current annual reporting rules.

One of the goals of the proposed change is to get better information on securities lending[12] practices and how they impact plan finances and operations. As indicated in the *Financial Stability Oversight Council's (FSOC) Annual Report for 2014* (available at *http://www.treasury.gov/initiatives/fsoc/Documents/FSOC%202014%20Annual%20Report.pdf*), the global value of securities loans was approximately $1.8 trillion in 2013. Pension plans are a large segment of the entities engaged in such transactions. Accordingly, the Agencies believe that more precise information is needed to understand how these transactions impact plans and how plans fit into the overall markets. The Agencies explored adding new breakout line items on the asset/liability and income expense statements to identify in more detail securities lending transactions. It is the understanding of the Agencies, however, that filers are reporting securities lending arrangements and similar transactions on the financial statements in various different ways, depending on whether the plan is borrowing or lending securities and the structure of the arrangement or transaction, including transactions such as repurchase agreements and sell/buy-back transactions where, technically, the plan no longer owns the securities. Accordingly, the Agencies believe that the best way to get information on securities financing transactions, without creating particularized line items that might not work for all types of transactions, is to instruct filers to report assets in the appropriate categories on the Schedule H and then identify the transactions in response to the newly proposed compliance questions. The new compliance question would ask whether the plan has investment acquisitions that are leveraged, including assets subject to collateralized lending activities (*e.g.,* securities lending arrangements, repurchase agreements (repos), etc.). If "Yes," the plan would be required to identify whether the plan engaged in securities lending arrangements, including repurchase agreements or sell/buy-backs, or other transactions that subjected plan assets to a mortgage, lien, or other security interest, and to describe the arrangement. The plan would then have to report, as a total, the amount of cash obligated in connection with collateralized lending activities at end of year, the value of securities obligated in connection with collateralized lending activities at end of year, the value of other assets obligated in connection with collateralized lending activities at end of year, and the approximate ratio of collateralized/leveraged investments to total plan assets at end of year. The Agencies specifically request comments on whether there could be effective breakout line items on the balance sheet that would more clearly show assets that are subject to securities lending or similar arrangements or whether there are specific instructions that would be helpful for filers to know where to categorize the various components of such transactions on both the balance sheet and earnings statements on the Schedule H.

Under the "Income and Expense" statement in Part II of the Schedule H, the Agencies propose retaining the same basic structure for reporting income as on the current Schedule H, but with additional breakout categories. Notably, the "interest" income category includes a new breakout for government securities other than U.S. government securities, and the unrealized appreciation (depreciation) of assets category would be broken out to report separately partnership/joint venture interests, commodities investments, derivatives, employer securities, foreign investments (other than those held through U.S. registered investment funds), and employer real property, in addition to the existing breakouts for real estate, CCTs, PSAs, MTIAs, 103–12 IEs, and registered investment companies. These proposed changes are intended to better support investment monitoring by asset class and provide more consistent data for research and policy purposes.

The proposal would also add new breakout categories to the "Administrative Expenses" category of the Income and Expenses section of the balance sheet. The Agencies have determined that to get a better picture of plan expenses, particularly those related to service providers, more detail in this category is warranted. Accordingly, data elements would be added for "Salaries and allowances," "Independent Qualified Public Accountant (IQPA) Audit fees," "Recordkeeping and Other Accounting Fees," "Bank or Trust Company Trustee/Custodial Fees" "Actuarial fees" "Legal fees," "Valuation/appraisal fees," and "Trustee fees/expenses (including travel, seminars, meetings."[13]

The Agencies are also proposing to change administrative expense reporting to identify when participant accounts are charged directly. The Agencies believe that this information is important to better understand how compensation arrangements impact participants, especially in defined contribution pension plans. The Agencies considered requiring filers to break out direct expenses on a service provider by service provider basis on Schedule C to show how and when they are charged to participant accounts rather than at the plan level. To minimize reporting burden under the proposal, however, the information would be reported only in the aggregate. Therefore, instead of requesting this information on the Schedule C, the Agencies have proposed revising the expense information on Schedule H. Specifically, the "Total" administrative expense line item on Schedule H would now require that administrative expenses charged directly against participant accounts be separately reported from those direct expenses charged to other plan asset sources. Filers would separate transaction-based charges to individual participant accounts and plan level expenses apportioned among participant accounts. With respect to the latter, filers would indicate whether the expenses were apportioned per capita, pro rata by account balance, or "Other" apportionment method that they would describe. This would give the Agencies and other users of the Form 5500 Annual Return/Report data a better idea of how and when participants are being charged administrative expenses, which is particularly important for defined contribution pension plans.

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[12] The term "securities loans" generally refers to the collateralized loan of a security from one party to another. Such a loan can have a pre-specified term, such as one business day, one week, or one month, or it can be "open." An open loan is ongoing until one of the parties to the trade decides to end it.

[13] Other than IQPA Audit Fees and Bank or Trust Company Trustee/Custodial Fees, these questions were on the Form 5500 prior to 1999. *See* 1998 Form 5500, Line 32(g).

2. Proposed Changes to Schedule H, Line 4i Schedules of Assets

As indicated above, the proposed modernization of the financial reporting required on the Schedule H would include structural, data element, and instruction changes to the Line 4i Schedules of Assets. The current Line 4i Schedules (''Schedule of Assets Held for Investment at End of Year'' and ''Schedule of Assets Acquired and Disposed Within Year'') are required under section 103 of ERISA to be included in the annual report, as currently implemented in the DOL's regulations at 29 CFR 2520.103–11.[14] These schedules are filed by plans required to file the Schedule H and by certain DFEs. The schedules are a central element of the financial disclosure structure of ERISA because they are the only place in the Form 5500 Annual Return/Report where plans are required to list individual plan investments, identified by major characteristics, such as issue, maturity date, rate of interest, cost, and current value. Accordingly, these schedules are the only part of the Form 5500 Annual Return/Report that can be used to evaluate the year-to-year performance of a plan's individual investments. The reported information, however, suffers from several shortcomings.

Perhaps most fundamentally, this information currently is not reported in a data-capturable format. Thus, although an image or picture of the attachments that are currently filed as non-standard attachments to filers' electronic Form 5500 Annual Return/Report filings is available through the EFAST2 public disclosure function, it is not viewable as part of the Schedule H, nor is the information included in the data sets that DOL prepares from the return/report filing data and publishes on its Web site (*www.dol.gov/ebsa/foia/foia-5500.html*). Also, the Line 4i Schedules of Assets are not always found in the same place in each Form 5500 Annual Return/Report filing. For example, the Line 4i Schedules of Assets are often incorporated in the larger audit report of the plan's IQPA that itself is filed as a nonstandard attachment to the Form 5500 Annual Return/Report.[15] The schedules also do not require standardized methods for identifying and describing assets on the Line 4i Schedules of Assets. Under the current reporting rules, the same stock or mutual fund may be identified with various different names or by use of different abbreviations. The creation of more detailed and structured Line 4i Schedules of Assets is a specific recommendation of both the DOL–OIG and the GAO. *See DOL Inspector Gen. EBSA Needs To Provide Additional Guidance And Oversight To ERISA Plans Holding Hard-To-Value Alternative Investments,* at 4–5; *GAO Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37.

The first proposed improvement would require filers to complete standardized Line 4i Schedules of Assets in a data-capturable format. The Agencies anticipate that EFAST2 would have separate ''structured'' locations for entering the data into the Form 5500 Annual Return/Report filing, using a standardized format that would enable incorporation of the Line 4i Schedules of Assets information into the datasets that EFAST and EBSA make available from each year's Form 5500 Annual Return/Report and Form 5500–SF filings and enable DOL to more readily disclose the information, as required under Title I of ERISA.

As under the current reporting structure, there would continue to be two separate schedules of assets.[16] The first would be the existing Schedule of Assets Held for Investment at End of Year. The second would modify the existing ''Schedule of Assets Acquired and Disposed of Within Year'' to a ''Schedule of Assets Disposed of During the Plan Year.'' The objective of the current Schedule of Assets Acquired and Disposed of Within Year was to ensure that the Form 5500 Annual Return/Report (which generally captures financial information at the beginning and the end of the plan year) captured information on assets that may not have been held either at the beginning of the year or end of year because they were bought and sold within the same year. That structure, however, suffers from a significant gap in information about alternative investments and hard-to-value assets because neither of the current Schedules of Assets provides information on the sale of such assets if purchased in one year and sold in the middle of a subsequent year. The change in the Schedule of Assets Disposed of During the Plan Year to cover all investment assets disposed of during the plan year would close that gap, while continuing to capture transactions that involve the purchase and sale of investment assets within the same plan year.

Both of the proposed Line 4i Schedules of Assets would continue to require filers to enter, as applicable, the existing data elements (1) identifying the issuer, borrower, lessor, or similar party; (2) describing the investment and identifying, as applicable, the issue, maturity date, rate of interest, par, or maturity value, including whether the asset/investment is subject to surrender charge; (3) reporting the cost of the asset; and (4) reporting the current value of the asset.

A new data element on the Line 4i(1) Schedule of Assets Held for Investment would require the filer to indicate whether the plan or reporting DFE held the investments directly, through a master trust, CCT, PSA, or a 103–12 IE. If the assets are held through a DFE, the filer (whether a plan or an investing DFE) would be required to list each DFE as an investment and enter for each DFE in which the filer was invested, the name, employer identification number (EIN), and plan number (PN) used by the DFE on its own Form 5500. If a PSA or CCT in which the reporting plan or DFE invests has not filed a Form 5500 Annual Return/Report, the filer would have to check a box to indicate that the CCT or PSA has not filed a Form 5500 Annual Return/Report, and the investing plan or DFE would have to break out the underlying assets of the CCT or PSA on its own Line 4i(1) Schedule of Assets Held for Investment at End of Year. This aspect of the proposal is intended better to coordinate the information currently reported by plans and investing DFEs on Schedule D and on the Line 4i(1) Schedule of Assets Held for Investment at End of Year.

The current instructions tell filers to use an asterisk to identify investments that involved a party-in-interest on the Line 4i Schedule of Assets Held for Investment at End of Year. Review of Form 5500 Annual Return/Report data, however, suggests that many filers may not be aware of the requirement, which is currently explained only in the instructions for Schedule H of the Form

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[14] To see the proposed changes to the DOL's regulations to implement these data element and instruction revisions, please see the DOL's Notice of Proposed Rulemaking—Annual Reporting, published elsewhere today in the **Federal Register**.

[15] *See EFAST2 FAQ 24a,* (available at *www.dol.gov/ebsa/faqs/faq-EFAST2.html*) (advising filers of options in EFAST2 for filing the accountant's opinion and accompanying financial statements, indicating that they do not need to be ''tagged'' separately for filing purposes.)

[16] The current Line 4i question generally asks whether the plan held assets for investment, referring to both Schedules of Assets. Because all filers, except filers for terminated plans, answer ''Yes'' to indicate that they have assets held at end of year, answers to the current question do not reveal whether the plan also had assets acquired and disposed of during the plan year. The proposal would separate the question into two parts: Line 4i(1) asking whether the plan held investments at the end of the year; and Line 4i(2) asking whether the plan disposed of assets during the plan year. If the answer was ''Yes'' to either question, the corresponding Schedule of Assets would need to be attached.

5500 Annual Return/Report. Identification of the involvement of a party-in-interest, therefore, has been inconsistent and incomplete. To address the issue, the proposal would replace the current requirement to include an asterisk with a check box to indicate whether the investment involved a party-in-interest.

To indicate the type of asset generally, filers generally would be required to indicate on the Line 4i Schedule of Assets the category under which the value of the asset was included on the Schedule H asset statement (proposed Line 1b), or if held through a CCT or PSA that has not filed, where the individual assets would have been included on Line 1b if not held through the CCT or PSA.

The proposal would add to the Line 4i(1) Schedule of Assets Held for Investment at End of Year a requirement to report investment identifiers such as CUSIP (Committee on Uniform Securities Identification Procedures), CIK (Central Index Key), and LEI (Legal Entity Identifier), if applicable, for each asset. Filers would also be expected to provide any other uniform number applicable to the entity or asset being reported, such as the Financial Instrument Global Identifier (FIGI), which is now coming into more common usage.[17] The use of CUSIP in particular has been recognized by the GAO as a way to improve end-users' ability to aggregate analyses of the information contained on the Schedules of Assets. *GAO Private Pensions: Targeted Revisions Could Improve Usefulness Of Form 5500 Information,* at 17.

The Agencies recognize that some identifiers, particularly the LEI, are not yet widely used. The LEI is included in the proposal in anticipation of increased use by the time the rule becomes final. The LEI is intended to identify legally distinct entities that engage in a financial transaction. It has support from both industry and government agencies who view having a universal identifier of parties to financial transactions, such as the LEI, as an important response to the 2008 financial crisis and the best way to track and understand the true nature of risk exposures across the financial system. *See, e.g., Statement on Legal Entity Identification for Financial Contracts,* 75 FR 74146, 74147 (Nov. 30, 2010) (noting that precise and accurate identification of legal entities engaged in financial transactions is important to private markets and government regulation); *Executive Office of the President of the United States, Nat'l Science and Technology Council, Smart Disclosure and Consumer Decision-making: Report of the Task Force on Smart Disclosure,* at 13 (2013) (noting that the Administration is working to promote a LEI system). The use of LEI to identify pension plan transactions is particularly important because pension plan investments make up a large percentage of all investment assets and, as previously discussed, plans are increasingly invested in alternative investments that involve complicated financial structures and transactions.

Under the proposal, filers would continue to be required to set forth the current value of each investment asset listed on the Line 4i Schedules of Assets. To improve reporting on hard-to-value assets where the current value is by definition not readily available, filers would be required to check a box for each individual investment listed to indicate whether the asset is "hard-to-value." This requirement is meant to supplement the current compliance question on the Schedule H that asks whether the plan held any investment assets whose value was not readily determinable on an established market or set by a third party independent appraisal. *See, e.g.,* 2015 Form 5500 Annual Return/Report Instructions for Schedule H. The aggregate compliance question, by itself, does not provide particularly useful information on hard-to-value assets. An examination of Form 5500 Annual Return/Report filings suggests substantial non-compliance or inaccurate reporting in the ways plans answer the question. *See also DOL–OIG EBSA Needs To Provide Additional Guidance And Oversight To ERISA Plans Holding Hard-To-Value Alternative Investments,* at 4–5, 18, and 19 (recognizing that the Form 5500 Annual Return/Report has a "limited ability to capture information on hard-to-value investments" and recommending that EBSA "improve Form 5500 [Annual Return/Report] data collection, analysis, and targeting of plans with hard-to-value investments."). The Agencies believe that the requirement for filers to indicate for each specific investment asset whether the asset is hard-to-value is in keeping with the goals of obtaining better information regarding plan assets.

The instructions would also include a clearer definition of hard-to-value assets for this purpose. Specifically, assets that are not listed on any national exchanges or over-the-counter markets, or for which quoted market prices are not available from sources such as financial publications, the exchanges, or the National Association of Securities Dealers Automated Quotations System (NASDAQ), would be required to be identified as hard-to-value assets on the Line 4i Schedules of Assets. CCTs and PSAs that are invested primarily in hard-to-value assets must themselves be identified as hard-to-value assets, regardless of whether they are valued at least annually. Similar to the existing treatment in the instructions for registered investment companies, CCTs, and PSAs under the current rules, those registered investment companies, CCTs, and PSAs that are valued at least annually and are invested primarily in assets that are listed on any national exchanges or over-the-counter markets, or for which quoted market prices are available from sources such as financial publications, the exchanges, or the NASDAQ, however, would not need to be identified as hard-to-value assets on the Line 4i Schedules of Assets.

A non-exhaustive list of examples of assets that would be required to be identified as hard-to-value on the proposed Schedules of Assets includes: Non-publicly traded securities, real estate, private equity funds; hedge funds; and real estate investment trusts (REITs). The Agencies believe this definition is generally consistent with the FASB audit and accounting requirements defining assets with a readily determinable fair value. *See, e.g., FASB Accounting Standards Codification TM (ASC)* (Topic 820).

As discussed above, filers generally would be permitted to aggregate participant-directed brokerage account reporting on the Line 4i Schedules of Assets by indicating the value of all the brokerage account investments as a single entry (identifying the brokerage account information). In the element requiring filers to indicate the location where the asset was aggregated for purposes of balance sheet reporting on Line 1b, the filer would have to indicate all of the following applicable categories of investments: Tangible personal property, loans, partnership or joint venture interests, real property, employer securities, investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction, and any asset that would be categorized as "Other."

For the second of the Line 4i Schedules of Assets, which would correlate under the proposal to Schedule H, Line 4i(2), as noted above, the Agencies propose to change "Schedule of Assets Acquired and Disposed Within Year" to "Schedule of Assets Disposed of During the Plan Year." Filers currently report some information regarding the disposal of hard-to-value assets and alternative investments either on the Schedule H, Line 4i Schedule of Assets if the assets were both acquired and disposed of during the plan year, or, if the value of the transaction was five percent or more of total plan assets, on the Schedule H, Line 4j "Schedule of Reportable Transactions." The Agencies believe, however, that requiring reporting of hard-to-value assets and alternative investments acquired in one year and disposed of in another year, including investments that fall under the five percent limit of Line 4j,[18] would provide the Agencies with a more complete report of the plan's annual investments. The limitations on what assets need to be reported on the Schedule of Assets Disposed of During the Plan Year would remain unchanged from the current exceptions from reporting on the Schedules of Assets not held at the end of the plan year. Thus, the following would continue to be excluded from the Line 4i(2) Schedule of Assets Disposed of During the Plan Year:

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[17] See *U.S. Bank Adopts Bloomberg's New Industry-standard for Trustee Reporting,* Bloomberg, (available at *http://www.bloomberg.com/company/announcements/u-s-bank-adopts-bloombergs-new-industry-standard-for-trustee-reporting/*) (reporting that U.S. Bank is the first corporate trustee to adopt Bloomberg's transparent, open-source methodology.)

1. Debt obligations of the U.S. or any U.S. agency.
2. Interests issued by a company registered under the Investment Company Act of 1940 (*e.g.*, a mutual fund).
3. Bank certificates of deposit with a maturity of one year or less.
4. Commercial paper with a maturity of 9 months or less if it is valued in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934.
5. Participations in a bank common or collective trust (CCT).
6. Participations in an insurance company pooled separate account (PSA).
7. Securities purchased from a broker-dealer registered under the Securities Exchange Act of 1934 and either: (1) Listed on a national securities exchange and registered under section 6 of the Securities Exchange Act of 1934 or (2) quoted on NASDAQ.

Likewise, assets disposed of during the plan year would continue to exclude any investment that was not held by the plan on the last day of the plan year if that investment is reported in the annual report for that plan year in any of the following schedules:

1. The schedule of loans or fixed income obligations in default required by Schedule G, Part I;
2. The schedule of leases in default or classified as uncollectible required by Schedule G, Part II;
3. The schedule of nonexempt transactions required by Schedule G, Part III; or
4. The schedule of reportable transactions required by Schedule H, line 4j.

The new proposed Line 4i(2) Schedule of Assets Disposed of Within Year, generally would have the same data elements as the current Schedule of Assets Acquired and Disposed of Within Year. To implement the change in the schedule from "acquired and disposed of during the plan year" to "disposed of during the plan year," however, filers would have to indicate the acquisition date. Basic parallel changes would be made to the Line 4i(2) Schedule to keep it generally consistent with the Line 4i(1) Schedule.

Under the proposal, the Line 4j Schedule of Reportable (5%) Transactions would remain essentially unchanged. The current schedule of reportable transactions requires the filer to include information on the identity of the party involved in the reportable transaction or series of transactions. Consistent with the Line 4i Schedules of Assets, a checkbox is being added to this schedule to indicate whether the reportable transaction or series of transactions involved a person known to be a party-in-interest. Under the proposal, the Line 4j Schedule of Reportable (5%) Transactions would be structured in a standard format for data input and collection purposes; filers would not be able to use a nonstandard attachment.

3. Proposed Changes to DFE Reporting

As described in parts A.1 and A.2 above in the context of the new Schedule H balance sheet information and the updated schedules of assets, respectively, the proposal includes changes as to what information about DFEs and their underlying investments needs to be reported by both the plan and the DFE. The proposal includes correlative changes to the Schedule D that are described below, including the elimination of the requirement of plans to complete Schedule D. The Agencies considered a number of alternatives in developing a proposal to address problems and concerns with regard to the consistency and quality of the reporting of assets held through collective investment vehicles, including DFEs. The Agencies considered whether both DFEs and plans should be required, on their Line 4i Schedule of Assets, to show the underlying investments of DFEs. The Agencies also considered eliminating filings for PSAs, CCTs, and 103–12 IEs and simply requiring plans to report on the Line 4i Schedules of Assets the plan's proportionate share of each of the underlying assets held by each PSA, CCT, or 103–12 IE in which the plan is invested. The Agencies invite comments on the most effective and efficient way to address the inconsistent and limited reporting of information invested through DFEs. The Agencies are particularly interested in information on how investments in DFEs relate to investment alternatives in participant-directed accounts and how much of the underlying assets of DFEs consist of hard-to-value and alternative investments.

This revised reporting structure for both the Schedule H and the Line 4i Schedules of Assets for reporting investments through pooled investment vehicles is intended to enable the Agencies, plan fiduciaries and service providers, and other users of the data to have a better and more complete picture of the investments of plans. For nearly 44 percent of all assets held by large pension plans, the public information on plans' investments on the Form 5500 Annual Return/Report is limited to the class of the pooled investment arrangements rather than the financial class of the underlying investments (including hard-to-value and alternative investments). *See Dep't of Labor, 2010 Form 5500 Direct Filing Entity Bulletin: Abstract of 2010 Form 5500 Annual Reports* (2013), at 6. The proposed changes to reporting information about assets held through DFEs on the Line 4i Schedules of Assets, as well as the proposed changes to the Schedule H balance sheet information, is also supported by the GAO's recommendation that the Agencies take steps to reduce the difficulty associated with matching a plan's investments with those reported in the DFE's filing. *GAO Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 14–15.

The proposed filing requirements for master trusts, CCTs and PSAs, 103–12

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[18] Title I of ERISA contemplates reporting transactions involving three percent or more of plan assets. ERISA section 103(b)(3)(H). By prior rulemaking, the DOL has limited that reporting requirement to transactions involving five percent or more of plan assets. The Agencies continue to believe that generally keeping the limit at transactions involving five percent or more of plan assets, with this change to the Line 4i schedules, will provide sufficient information about significant transactions during the plan year.

IEs, group insurance arrangements (GIAs), and the plans that invest through these vehicles and the proposed revisions to Schedule D reporting are described more fully below.

a. DFE Reporting—Master Trusts

Some plans participate in certain trusts, accounts, and other investment arrangements that file the Form 5500 Annual Return/Report as a DFE. In general, a master trust for Form 5500 Annual Return/Report filing purposes is a trust maintained by a bank or similar institution to hold the assets of more than one plan sponsored by a single employer or by a group of employers under common control. Unlike CCTs and PSAs, not every plan participating in the master trust necessarily has a proportionate share of all of the assets of the master trust. To get information about each plan's holdings within the master trust, the annual return/report has historically asked for information about so-called MTIAs. The Agencies understand that the MTIA reporting requirements are unique to the Form 5500 Annual Return/Report, do not fully correspond to actual trust accounting practices used for master trusts, and may not be well understood or consistently complied with by plans that use master trusts for investment and reinvestment of assets. Accordingly, the proposal would eliminate MTIA reporting and replace it with what is intended to be a simpler approach.

Under the MTIA reporting concept, each pool of assets held in a master trust is treated as a separate MTIA if: (1) Each plan that has an interest in the pool has the same fractional interest in each of the assets in the pool as its fractional interest in the pool, and (2) each such plan cannot dispose of its interest in any asset in the pool without disposing of its interest in the pool. Under this test, it is possible for a single asset to be an MTIA if ownership of the asset meets the above test. Currently, a separate Form 5500 Annual Return/Report must be filed for each MTIA, among other things, listing the underlying assets of the MTIA on Schedule H and the aggregate value of each investing plan's ownership interest in the MTIA on Schedule D. The filing of each MTIA is deemed to be part of the Form 5500 Annual Return/Report of the investing plan, and the plan administrator is, therefore, ultimately responsible for MTIAs filing their Form 5500 Annual Return/Report, even if the bank or other third party is the person that files for the MTIA.

According to GAO, MTIAs account for roughly 20.4% of the total assets of large defined contribution pension plans. *See Private Pensions: Targeted Revisions Could Improve Usefulness Of Form 5500 Information,* at 14. Accuracy of filings showing investments in master trusts (regardless of reporting structure) is therefore important to have a complete picture of plan investments. To facilitate consistent reporting, the Agencies now propose to eliminate the concept of a separate MTIA filing as part of the changes to Schedules D and H and the Line 4i Schedules of Assets. Prior to 1999, master trusts were required to file the Form 5500 Annual Return/Report; information about MTIAs was provided in an attachment to the consolidated master trust filing. *See, e.g.,* 1998 Form 5500 Annual Return/Report and Instructions. Under the proposal, master trust filing would return to something closer to the pre-1999 structure.

Specifically, a Form 5500 Annual Return/Report would be required to be filed for each master trust in which a plan has an interest. The master trust, like a MTIA under the current rules, would be required to include as part of its Form 5500 Annual Return/Report, a Schedule D to list all participating plans. The Schedule D listing of participating plans would include the requirement to report the total value of each participating plan's investment assets in the master trust. Plans would report their investments in master trusts in detail on their Schedule H, Line 4i(1) Schedule of Assets Held for Investment at End of Year, including the name and EIN of the master trust used on the master trust's Form 5500 Annual Return/Report. Plans would also list the aggregate value of their investment in master trusts on the Schedule H balance sheet.

The proposal also would change the instructions to address what the Agencies understand to be inconsistency in the way master trust expenses are reported. Specifically, under the proposal, the master trust's report would include expenses that are allocable equally to all plans investing in the master trust. All other expenses would have to be allocated to the individual participating plans and reported at the individual plan level.

Finally, the regulations and instructions would provide that to be a master trust for reporting purposes, either the master trust must operate on a calendar year or the master trust and all of the plans invested in the master trust must operate on the same fiscal year. Where the master trust is on a calendar year and a participating plan on a fiscal year other than a calendar year, similar to Schedule A reporting of insurance contracts, the information reported by the plan would be for the master trust year ending within the plan year.

The combined changes for reporting by both investing plans and master trusts on both the Schedule H balance sheet and the Line 4i Schedules are intended better to effectuate the purposes underlying the current combination of MTIA, Schedule H (including the Line 4i Schedules), and Schedule D reporting. This should make it easier to understand the finances of the master trust as a whole, as well as the finances of the plans investing through a master trust. The Agencies invite comments to provide alternative suggestions on how to improve the transparency and accuracy of reporting plans' proportionate ownership of interests in assets held through a master trust.

b. DFE Reporting—CCTs and PSAs

As with the existing rules, under the proposal, a Form 5500 Annual Return/Report may be, but is not required to be, filed for a CCT or a PSA. The proposal would change the filing requirements with respect to CCTs and PSAs as follows. As discussed above, regardless of whether a CCT or PSA in which the plan invests files a Form 5500 Annual Return/Report as a DFE, the plan would report the interests in the CCT or PSA on the CCT or PSA line of the Schedule H balance sheet (Part I, Line 1b), although there would be breakouts within those categories to give a general idea of the types of assets held through the CCT or PSA. The changes should result in a clearer statement of total plan assets invested through these collective investment vehicles.

The current requirement to break out the assets of non-filing CCTs or PSAs would be retained, but the proposal would shift the details of the underlying investments to the newly structured Line 4i(1) Schedule of Assets. Under the proposed revisions, investing plans, on their own Line 4i Schedules of Assets, would be required to list each underlying investment, identifying that the investment was held through a non-filing CCT or PSA, including the CCT's or PSA's name and other identifying information, as well as the information on the underlying asset.[19]

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[19] As discussed above, if the CCT or PSA files a Form 5500 Annual Return/Report, the holdings in the CCT or PSA could be listed on the plan's Line 4i(1) Schedule of Assets at the CCT/PSA level (corresponding to the breakout categories on the balance sheet statement). Thus, the PSA or CCT filing of a Form 5500 Annual Return/Report, including the Line 4i(1) Schedule of Assets Held for Investment, would relieve each participating plan from reporting detailed information regarding the underlying investments.

In this regard, the Agencies note that under current DOL regulations CCTs and PSAs are required to provide information about the underlying assets of the CCT or PSA to participating plans and provide plans with relief from reporting the underlying assets of the CCT or PSA if the CCT or PSA files the Form 5500 Annual Return/Report, but that CCTs and PSAs are not required themselves to file the Schedules of Assets. The regulation would be amended to provide that plans are relieved from breaking out the individual assets on the Schedule H, Line 4i Schedules of Assets, if the CCT or PSA instead files its own Form 5500, including the Schedule H and the Schedule of Assets Held for Investment. Also, the regulation would indicate that providing the information needed for a plan to complete the Line 4i Schedules of Assets constitutes compliance with the requirement to transmit information regarding the assets held by the CCT or PSA. With this change, information regarding the underlying investments of CCTs and PSAs, which have been provided only to plan fiduciaries, will now be part of the annual return/report data set; it will be filed either by the participating plans or by the CCT or PSA.

c. DFE Reporting—103–12 IE

The DOL's regulation at 29 CFR 2520.103–12 provides that an entity in which two or more unrelated plans invest that is not a CCT, PSA, or master trust, and which is deemed to hold plan assets under the DOL's regulations at 29 CFR 2510.3–101 that voluntarily chooses to file a Form 5500 Annual Return/Report for itself on behalf of its investing plans, is treated as a "103–12 IE" filing entity for Form 5500 Annual Return/Report reporting purposes. Under the proposal, reporting for these pooled investment vehicles generally remains unchanged, except to the extent that the data elements for the existing forms and schedules have changed for all filers. For a plan to be able to report investments in such entities as a single investment on the balance sheet portion of Schedule H, as under the current reporting rules, the entity in which the plan invested would have to complete its own Form 5500, together with a Schedule H and Line 4i Schedules of Assets, as well as Schedules A, C, D, G, as revised in the proposal, and the entity's own IQPA report. Under the proposal, similar to reporting assets held through participant-directed brokerage accounts, filers would have to indicate all the Line 1b balance sheet breakout categories for types of underlying investment of each 103–12 IE, but would not have to identify each individual investment.

d. DFE Reporting—GIAs

The reporting requirements for GIAs would generally remain unchanged, except GIAs would be subject to the same changes in reporting as comparable welfare plans, including the new requirements for welfare plans that provide health benefits. As under the current rules, welfare plans that are fully insured, including group health plans, would still have the exemption from filing the Form 5500 Annual Return/Report if they participate in a GIA that has filed its Form 5500 Annual Return/Report. GIAs would continue to be required to file all the same forms, schedules, and attachments as a large group health plan funded with a trust. GIAs that provide group health coverage would be required to file a separate Schedule J for each separate employer's participating plan.

e. DFE Reporting—Changes to Schedule D

The Agencies propose to continue the Schedule D requirement for DFEs in which plans invest, but not for plans participating in DFEs. DFEs would continue to report identifying information about the participating plan and the dollar value of each investing plan's interests in the DFE as of the end of the DFE reporting year. Participating plans, because they would now be reporting detailed information about investments in DFEs on their Line 4i Schedules of Assets, would no longer have to complete the Schedule D.

4. Better Information on Plan Terminations, Mergers, and Consolidations

The Agencies propose revisions to existing Schedule H and Form 5500–SF questions on plan terminations, mergers, and consolidations. First, the Agencies propose expanding the question that asks whether the plan has adopted a resolution to terminate so that it also asks for the effective date of the plan termination, the year in which assets were distributed to plan participants and beneficiaries, and whether the plan transferred assets or liabilities to another plan.

Second, the proposal would add a question asking filers to indicate whether another plan transferred assets or liabilities to the reporting plan (other than pursuant to a direct rollover). If the plan received a transfer of assets or liabilities from another plan, the filer would be asked to provide the date and type of transfer (merger, consolidation, spinoff, other). This new information is intended to provide better information on transfers of participant benefit obligations over the years.

Third, if the plan is a defined contribution pension plan that terminated and transferred plan assets to a financial institution and established accounts in the name of missing participants, the filer would be asked to provide the name and EIN of the financial institution, the date the assets were transferred to the institution, the number of accounts established, and the total amount transferred. Although the question would not ask the filer to identify individual affected participants or beneficiaries, this requirement is designed to help missing participants locate information about their accounts, in some cases years after the plan termination when the plan or plan sponsor may no longer exist or have records of the accounts it established. Asking for information about accounts created for missing participants after plan termination would also be responsive to the ERISA Advisory Council's recommendations that the DOL use the Form 5500 Annual Return/Report to obtain more consistent reporting on accounts that hold missing participant plan assets. *See 2013 ERISA Advisory Council Report: Locating Missing and Lost Participants, Dep't of Labor* (available at *www.dol.gov/ebsa/publications/2013ACreport3.html#2*).

In this 2013 report, the Advisory Council noted that another issue with "lost" or "missing" participants for ongoing plans as well as terminating plans, especially 401(k) plans, is "uncashed" checks, particularly checks sent to participants who have left employment where the Code permits the plan to "cash out" the participant. *Id.* The report noted that a plan was not necessarily able to tell whether uncashed checks were sent to the wrong address (a "lost" or "missing" participant issue) or whether a participant received the check but had not cashed it. To get better information about the magnitude of the problem with respect to defined contribution pension plans and to make plan fiduciaries aware that they should, at a minimum, have procedures in place to verify that a participant's address is good before a check is mailed and to keep track of the number of uncashed checks and the amount involved, the proposal would also add to both the Schedule H and the Form 5500–SF a compliance question for defined contribution pension plans asking whether there were any uncashed checks at the end of the plan year. If there were any uncashed checks at the end of the year, filers would be required to report how many uncashed checks there were and the total dollar value of the uncashed checks. Defined contribution pension plan filers would also be asked to describe briefly in an open text field the procedures that they followed to verify a participant's address and with respect to monitoring the uncashed checks. The proposed instructions provide that for Form 5500 Annual Return/Report reporting purposes, an uncashed check is one that is no longer negotiable or is subject to limited payability.

In proposing to add a compliance question instead of telling filers how to account for the assets associated with uncashed checks on the Schedule H, the Agencies recognize that the ERISA Advisory Council indicated that there are questions regarding how the underlying assets represented by uncashed checks should be reported on the Form 5500 Annual Return/Report. Because of the variety of situations that might result in uncashed checks and the different ways uncashed checks might be accounted for in an ongoing plan, the Agencies have chosen to add a compliance question, leaving flexibility in the balance sheet reporting on Schedule H and on the Form 5500–SF and, where applicable, the IQPA report.

The ERISA Advisory Council and some of the witnesses who testified recommended that the DOL publish guidance to advise plan fiduciaries how to handle uncashed checks, among other issues regarding missing or lost participants and beneficiaries and how to address the assets associated with those participants or beneficiaries. In making this recommendation, it was recognized that there was a tension between the mandatory distribution requirements under the Code and fiduciary responsibilities. In the absence of further guidance with regard to how to handle uncashed checks, the DOL notes (as stated above) that plans should at least have policies and procedures in place to verify participant addresses, for searching for missing participants and for fiduciaries to keep track of or be made aware of the number of uncashed checks and the total value of such checks that remained uncashed at the end of the plan year. Depending on the type of plan, the terms of the plan, and the status of the plan sponsor, there may be actions needed to satisfy fiduciary obligations with regard to benefit payments.

5. Changes to Financial Reporting for Small Plans

a. Changes to Form 5500–SF

In general, small plans that are invested only in "eligible" plan assets and otherwise meet the existing requirements for eligibility to file the Form 5500–SF would continue to be able to file the Form 5500–SF.[20] Welfare plans with fewer than 100 participants that do not provide group health benefits and that are required to file an annual return/report and that meet the eligibility requirements for the Form 5500–SF will still be able to use the Form 5500–SF to satisfy their filing requirement. Welfare plans with fewer than 100 participants that provide group health benefits are not eligible to use the Form 5500–SF.[21] For Form 5500–SF filers, there would be a modest additional breakout on the balance sheet information to give a basic picture of the types of eligible assets in which Form 5500–SF eligible small plans are invested. Specifically, filers would have to categorize the plans' investments into one of the following categories: (1) Cash/cash equivalents; (2) money market funds; (3) publicly traded stock (preferred/common); (4) publicly traded bonds, including government securities; (5) interests in registered investment companies (mutual funds, unit investment trusts, closed end funds); (6) interests in PSAs; (7) interests in CCTs; and (8) interests in insurance policies/contracts other than PSAs, *e.g.* annuity contracts. In contrast to the Schedule H balance sheet financial breakout categories, there would be no "Other" category for the balance sheet financials on the Form 5500–SF. If a small plan were to be invested in any assets other than those in the eight listed categories, it would not be eligible to file the Form 5500–SF.

As discussed in more detail below, the proposal would eliminate the current Form 5500 and Form 5500–SF line items that require the filer to input "plan characteristics codes" onto the form from a list in the instructions. Instead, the filer would complete a series of separate questions. In general, those changes involve requesting information about plan characteristics as a series of "Yes"/"No" and check box questions to make the forms easier to complete, make the forms more straightforward as a disclosure document, and improve the quality of the data. In addition, as with Form 5500 Schedule H filers, the proposal would require that the Form 5500–SF filed for a participant-directed individual account plan must include an electronic copy of the comparative chart of designated investment alternatives (DIAs) currently required to be provided to participants of such plans under 29 CFR 2550.404a–5. The Agencies believe that although this information would not be filed in a data captured structure and, thus, would not be as readily data mineable, attaching the already required 404a–5 comparison chart would allow participants and beneficiaries in participant-directed individual account plans to access the most recent and prior year comparative charts through the EFAST Form 5500 Annual Return/Report public disclosure feature. It would also enable the Agencies to monitor more effectively compliance by participant-directed individual account plans with this important disclosure requirement. It also would provide important information regarding investment features and investment fees and expenses. We also understand that private third parties would be able to use the copies of the comparative charts to develop more individualized tools to help plan sponsors, plan fiduciaries, and participants and beneficiaries evaluate and compare their plans' investment options. The Agencies believe that a requirement that the plan administrator of a participant-directed individual account plan attach an electronic copy of an existing document should be less burdensome than adding new questions that would require the same data to be entered onto the form or schedules to collect the information.

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[20] The Form 5500–SF was developed and adopted for 2009 Form 5500 Annual Return/Report in part to provide a simplified report required under the Pension Protection Act of 2006. The DOL continues to believe, as discussed when implementing the 2009 forms revisions, 72 FR 64731 (Nov. 16, 2007), that the requirement in the PPA to provide "'simplified" reporting for plans with fewer than 25 participants is satisfied by making available the simplified reporting in the 5500–SF only to those plans invested in eligible assets—generally easy to value assets. Section 1103(b) of the Pension Protection Act of 2006, (PPA) 120 Stat. 780, 1057, requires the Secretary of the Treasury/IRS and the Secretary of Labor to provide for the filing of a simplified annual return for any retirement plan which covers fewer than 25 participants on the first day of the plan year and which (1) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code without being combined with any other plan of the business that covers the employees of the business; (2) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and (3) does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of the Code). The PPA provision does not include specific requirements as to the form or content of the simplified filing.

[21] Currently welfare plans with fewer than 100 participants, including those that provide group health benefits, that are not exempt from the requirement to file an annual return/report (*e.g.*, those that are funded with a trust) are permitted to file the Form 5500–SF, if otherwise eligible.

The Agencies seek comment as to whether there would be any real additional burden, other than transition costs to move to the new method, to enter the data in a structured format rather than attaching a copy of the existing document.

b. Changes to Filing Exemptions and Requirements for Small Plans Not Eligible To File the Form 5500–SF

As discussed above, various oversight and advisory bodies have identified a significant need for better information regarding employee benefit plan investments, in particular regarding plans invested in hard-to-value and alternative investments. In that regard, the Agencies are proposing a number of changes for small plans that are not Form 5500–SF eligible filers. First, the Schedule I would be eliminated. Like the Form 5500–SF, the Schedule I does not require small plan filers to provide detailed plan asset information. Since small plan filers are the majority of annual return/report filers overall (taking into account both Form 5500–SF and Form 5500 filers), this shortcoming impairs the utility of the Form 5500 Annual Return/Report as a tool to obtain a meaningful picture of small plan investments in hard-to-value and other assets. As the GAO has noted, the limited financial information provided on the Schedule I creates a challenge for participants, beneficiaries, oversight agencies, researchers, and other users of the Form 5500 or Form 5500 data. *GAO Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 18. Accordingly, under the proposed change, small plans that are not eligible to file the Form 5500–SF and that currently file the Schedule I would be required to complete the Schedule H and the applicable Line 4i Schedules of assets. Small plans with simple investment portfolios would not see a significant increase in their annual reporting burden. Although this would result in additional reporting details for those small plans with complex portfolios that include hard-to-value or alternative investments, the Agencies believe that such small plans should have more transparent financial statements. In light of changes in the financial environment and increasing concern about investments in hard-to-value assets and alternative investments, the Agencies continue to believe that requiring small plans invested in such assets to report separate financial information regarding hard-to-value investments is important for regulatory, enforcement, and disclosure purposes. Although such small plans would be required to complete the Schedule H instead of the Schedule I, including the Line 4i(1) and 4i(2) Schedules of Assets, to minimize increased burden, small plans that meet the specified requirements, as they can under the current rules, would continue to be eligible for a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46. As is currently the case, under the proposal, all welfare plans with fewer than 100 participants that are required to file an annual return/report are eligible for a waiver of the annual examination and report of an IQPA under 29 CFR 2520.104–46(b)(2).

The Agencies are also proposing to change the rules for determining when a plan is exempt from the requirement to include an IQPA report with its filing. In that regard, the Agencies are proposing to add to the Form 5500 a new question, for defined contribution pension plans only, asking for the number of participants with account balances at the beginning of the plan year. Defined contribution pension plans would determine whether they have to file as a large plan and whether they have to attach an IQPA report based on the number of participants with account balances as of the beginning of the plan year, as reported on the face of the Form 5500 or Form 5500–SF. Currently, the IQPA requirement is based on the total number of participants (including those eligible but not participating in a Code section 401(k) or 403(b) plan) at the beginning of the plan year. With the changes in the reporting requirements for small plans (for example, the elimination of the Schedule I), this would minimize burden, but would still provide a picture of the types of investments and fees of small plans (plans with fewer than 100 participants that have an account balance) without requiring them to cover the cost of an audit. For first plan year filings, the plan would have to have fewer than 100 participants with account balances both at the beginning of the plan year and the end of the plan year.

The proposal would also require a Schedule C to be filed by small pension plans that are not eligible to file the Form 5500–SF, small welfare plans that provide group health benefits that are not unfunded or insured (*e.g.,* funded using a trust), and other small welfare plans that are not unfunded or insured plans and are not eligible to file the Form 5500–SF. Currently, only large plans must file a Schedule C, thus excluding a large portion of plans from having to disclose service provider fees. The Agencies recognize the burdens small plans face in complying with disclosure obligations, but requiring certain small plans to file a Schedule C would address some of the GAO's concerns that not all critical information on indirect compensation is being reported to the Agencies. *See GAO Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 25–26 ("Given these various exceptions to fee reporting requirements, Schedule C may not provide participants, the government, or the public with information about a significant portion of plan expenses and limits the ability to identify fees that may be questionable."). In addition, the rule would better align financial information reporting with recently adopted disclosure rules to broaden the fees that are reported by the affected plans. *Id.* at 50.

6. New Information on Employer Matching Contributions, Employee Participation Rates, and Plan Design for Defined Contribution Pension Plans

The Agencies are proposing changes that are intended to collect better information on pension plan coverage and performance as retirement savings vehicles. The focus is on participant-directed defined contribution pension plans, which are becoming the primary source of retirement savings for many of America's workers. Specifically, the proposal would add new questions to the Form 5500, Form 5500–SF, and Schedule R on participation, contributions, and asset allocation by age, and participant-level diversification. The questions ask for the number of participants making catch-up contributions, investing in default investment options, maximizing the employer match, and deferring compensation. Also, questions would be added to the Form 5500 and Form 5500–SF to collect information on the number of participants in defined contribution pension plans with account balances as of the beginning of the plan year and on the number of participants that terminated employment during the plan year that had their entire account balance distributed. There are also new questions about whether the plan uses a default investment alternative for participants who fail to direct assets in their account and which type of investment alternative is used.

7. Changes to Reporting on Schedule G (Financial Transaction Schedules)

The proposal would reconfigure Schedule G's reporting to require more uniform and detailed information on loans, fixed income obligations, and leases in default, including swaps/options and derivative transactions. By creating specific data elements on the existing Schedule G line items for plans to identify specifically swaps and options that would otherwise generically have been reported as loans or fixed income obligations in default or uncollectible, the proposed Schedule G is intended to provide a more complete picture of issues of default, uncollectibility, or conflict of interest (nonexempt) transactions with respect to plan investment in these types of hard-to-value assets.

8. Re-introduction of Schedule E To Improve Information on Employee Stock Ownership Plans (ESOPs)

Prior to 2009, the Schedule E (ESOP Annual Information) was an IRS component of the Form 5500 Annual Return/Report used to collect information regarding ESOPs. As with the other "IRS-only" schedules that are part of the Form 5500 Annual Return/Report, the Schedule E was removed from the 2009 Form 5500 Annual Return/Report when DOL mandated electronic filing of the Form 5500 Annual Return/Report as part of EFAST2 due to statutory limits on the IRS's authority to mandate electronic filing of such information for filers of fewer than 250 returns. A limited number of the questions on the Schedule E were moved to the Schedule R beginning with the 2009 Form 5500 Annual Return/Report. The Schedule R is not an "IRS-only" schedule nor were the questions that were moved to the Schedule R IRS-only. Accordingly, filing of the current ESOP information on the Schedule R was subject to DOL's electronic filing mandate under Title I of ERISA.

The Agencies propose to bring back to the Form 5500 Annual Return/Report a revised version of the Schedule E, which now generally would be required reporting under both Title I of ERISA and the Code and thus would be open to public inspection. The new version would include some of the questions on the pre-2009 Schedule E, revisions to other questions, and additional new questions. The questions moved to the Schedule R for the 2009 revisions would be removed from the Schedule R and instead be included on the new and revised Schedule E. The Agencies believe the use of a single schedule for all ESOP questions would simplify the filing of Form 5500 Annual Return/Report for both ESOP and non-ESOP filers. In addition, a single schedule for ESOPs would also be a more effective and efficient information collection tool for the Agencies.

The questions on the proposed Schedule E are divided into sections based on whether the ESOP stock was acquired by a securities acquisition loan, whether the stock is readily tradable on an established securities market (including stock acquired by securities acquisition loans), whether the ESOP has an outstanding securities acquisition loan, and some miscellaneous questions.

Part I of the proposed Schedule E would apply only if the ESOP acquired common or preferred stock with the proceeds of a securities acquisition loan. Several questions relate to the valuation of the stock acquired by the ESOP and, in particular, cases where a premium is paid for a controlling interest in a company where, in fact, a controlling interest is not acquired. Questions would also be included regarding the release of common stock from a suspense account and its allocation. For example, a question would ask for the method used when stock is released from the suspense account (similar to Line 5 of the 2008 Schedule E) in accordance with Treasury regulations. See 26 CFR 54.4975–7(b)(8). As with Line 4 of the 2008 Schedule E, the proposed Schedule E would also ask if the ESOP holds preferred stock and further ask for the method by which the preferred stock is convertible into common stock.

Part II of the proposed Schedule E would ask questions related to compliance issues when stock that is not readily tradable on an established securities market is acquired by an ESOP. Specifically, with respect to each acquisition of stock, the proposed schedule would ask for information on the relationship of the seller of the stock to the plan or to the employer, and whether the seller is a party-in-interest or a disqualified person under the prohibited transaction rules of Title I of ERISA and the Code, respectively. Further, the proposed schedule would ask for the total consideration paid and the date of the transaction. The proposed schedule would also ask if the stock was valued by an independent appraiser and, if not, the identity of the person who valued the stock. Lastly, Part II would ask for the valuation method(s) used to value the stock. Each of these questions would assist the Agencies in identifying possible issues in the acquisition of stock, including whether the stock was properly valued and whether a prohibited transaction may have occurred.

Part III of the proposed Schedule E asks questions applicable to ESOPs with outstanding securities acquisition loans. Unlike the 2008 Schedule E which only asked whether the ESOP had a securities acquisition loan, the proposed Schedule E would ask for more information regarding these loans. The proposed schedule asks for basic information regarding the amount and date of the loan, as well as the interest rate on the loan. In order to address possible prohibited transactions and situations where the ESOP may have paid too much for the stock, the proposed Schedule E also would ask for the lender's relationship to the plan and the plan sponsor, whether the lender is a disqualified person or a party-in-interest, and whether the loan was guaranteed by a disqualified person or a party-in-interest. Part III also would ask questions regarding whether the loan is in default and whether the loan has been refinanced. A loan that is in default raises issues as to whether the plan sponsor is making substantial and recurring payments to the ESOP and whether the ESOP has been terminated, in which case all of the ESOP shares should be distributed.

Part IV of the proposed Schedule E would include miscellaneous questions. Specifically, to address compliance concerns under Title I of ERISA, the proposed schedule would ask whether employee elective deferrals were used to satisfy any securities acquisition loan. With the exception of the elective deferral question, which addresses a DOL compliance issue and not an issue under the Code, the Part IV questions are carried over from the 2008 Schedule E and continue to address significant compliance issues under the Code, including whether the amount of the dividend is reasonable and whether the requirements of 26 CFR 1.404(k)–3T are satisfied. Specifically, the proposed Schedule E would ask whether the ESOP is maintained by an S corporation and whether there are any disqualified persons under Code section 409(p)(4) (lines 1a and 1b of the 2008 Schedule E), whether any unallocated securities (or proceeds from unallocated securities) were used to repay an exempt loan (Line 6 of the 2008 Schedule E), and whether the plan sponsor paid dividends deductible under Code section 404(k) (Line 2b of the 2008 Schedule E). This last question is further broken down on the proposed schedule to include information as to the amount of the deduction, the dividend rate, and whether the dividends were used to reacquire stock held by the ESOP.

As described above, several of the questions on the proposed Schedule E would be IRS-only questions. These questions are subject to the electronic filing rules imposed by Treasury regulations, but they are not subject to the DOL electronic filing mandate. The IRS-only questions would be identified on the Schedule E itself or in the Schedule E instructions. Accordingly, although filers would be required to answer most questions on the proposed Schedule E electronically using EFAST2, some filers who are not subject to the IRS electronic filing requirements and elect not to answer the questions through EFAST2 would have the option of answering the IRS-only questions on the IRS's Form 5500 SUP "Annual Return of Employee Benefit Plan Supplemental Information," which is a separate paper based IRS-only information collection system maintained by the IRS outside of the EFAST2 system.

B. Improve Fee and Service Provider Transparency (Schedules C and H)

The Agencies continue to make efforts to improve the reporting and disclosure of service provider compensation. The key focus of the proposed changes in this regard is to harmonize Form 5500, Schedule C, reporting of indirect compensation with the disclosures required under the DOL's final regulation under Title I of ERISA on service provider compensation at 29 CFR 2550.408b–2. As discussed above in the section on small plan reporting changes, the proposal would also expand Schedule C reporting to those pension plans required to file the Form 5500, regardless of size.[22] The current Form 5500, Schedule C indirect compensation reporting rules, including the exception from reporting of "eligible indirect compensation," were implemented for the 2009 forms. *See* 72 FR 74731 (Nov. 16, 2007). Those changes were part of a three-pronged regulatory initiative that included the DOL's plan-level disclosure regulations under 29 CFR 2550.408b–2 and participant-level disclosure regulations under 29 CFR 2550.404a–5. At the time the Schedule C rules were finalized, the 408b–2 disclosure regulations had not yet been promulgated. Some elements of the Schedule C, for example, the eligible indirect compensation provisions, were adopted in light of the fact that it was not certain at the time what the 408b–2 final rule would require. Those provisions were also meant to respond to concerns from the regulated community, especially large service providers with many ERISA-covered plan clients, about having to create two different record-keeping systems to meet the various requirements of Form 5500 Annual Return/Report and 408b–2 disclosures should the later promulgated 408b–2 provisions differ from the Form 5500 Annual Return/Report reporting requirements on indirect compensation. With the service provider disclosure rules now final at 29 CFR 2550.408b–2, the Agencies are proposing various changes to the Schedule C to better harmonize it with the disclosure requirements under the 408b–2 final rule.

First, the Schedule C would be changed to require reporting of indirect compensation only for "covered" service providers and for compensation that is required to be disclosed, as defined in 29 CFR 2550.408b–2(c)(1). The Agencies expect that this change would improve Schedule C reporting because it would essentially require the pension plan administrator to report the actual compensation paid to or received by covered service providers based on the expected compensation included in the 408b–2 disclosures that the service provider furnished to the plan as part of the process of establishing and maintaining the service contract or arrangement with the plan. The instructions similarly have been clarified to track more closely the language of the 408b–2 regulation.

In making this an across-the-board Schedule C change to provide for consistency in the annual return/report requirements, the Agencies recognize that the changes proposed to the Schedule C would also apply to certain welfare plans that are not subject to the 408b–2 regulation. The principal consequence of the proposed changes for those welfare plans is to narrow the classes of service providers that would be required to be reported and more clearly define the types of compensation that must be reported on the Schedule C. Thus, we believe that the proposed changes will be improvement for welfare plan reporting.

Another key element of the proposed changes to Schedule C consistent with the final regulations at 29 CFR 2550.408b–2 is the elimination of the reporting concept of "eligible indirect compensation." Under the current reporting rules, the types of indirect compensation that can be treated as "eligible indirect compensation" are fees or expense reimbursement payments charged to investment funds and reflected in the value of the investment or return on investment of the participating plan or its participants, finder's fees, "soft dollar" revenue, float revenue, and/or brokerage commissions or other transaction-based fees for transactions or services involving the plan that were not paid directly by the plan or plan sponsor (whether or not they are capitalized as investment costs). Under the current requirements, rather than disclosing the identity of the service provider and reporting information about the services provided and compensation received by the service provider, the plan administrator must merely confirm that the plan received certain written disclosures that describe: (1) The existence of the indirect compensation; (2) the services provided for the indirect compensation or the purpose for payment of the indirect compensation; (3) the amount (or estimate) of the compensation or a description of the formula used to calculate or determine the compensation; and (4) the identity of the party or parties paying and receiving the compensation. The GAO has been critical of the concept of "eligible indirect compensation" and other limitations on Schedule C reporting of indirect compensation received by plan service providers. *See GAO Private Pensions: Additional Changes Could Improve Employee Benefit Plan Financial Reporting.* In its response published with that report, the DOL generally agreed that reporting indirect compensation on Schedule C should be coordinated with the implementation of new requirements in the then proposed regulation under section 408(b)(2) of ERISA. Part of the reason for the concept of eligible indirect compensation was the timing of the move to the electronic filing system and attendant forms changes relative to the timing of the 408b–2 regulation. There is no counterpart to "eligible indirect compensation" under 29 CFR 2550.408b–2. In this regard, the proposed Schedule C would eliminate current Line 1 (which enables plans to acknowledge that they had service providers that received only eligible indirect compensation). Current Line 2, used for reporting both direct and indirect compensation, would be made new Line 1. To effectuate the elimination of the "eligible indirect compensation" reporting concept, there would no longer be a corresponding element to current Line 2(f), which asks whether a listed service provider that received other direct or indirect compensation also received eligible indirect compensation.

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[22] Form 5500–SF filers would not be required to file the Schedule C, but small defined contribution pension plans filing the Form 5500–SF, as well as any defined contribution pension plans required to file the Form 5500, Schedule H, would be required to attach the comparison chart required to be disclosed to participants and beneficiaries under the DOL's regulation at 29 CFR 2550.404a–5. Form 5500–SF filers also would continue to be required to answer a question on total insurance fees and commissions, that parallels the total insurance fee and commission question on Schedule A.

In changing the reporting requirements to better track the 408b–2 regulation, the Agencies recognize that part of the reason for having developed the concept of "eligible indirect compensation" was concern expressed by commenters that it would be difficult to generate specific dollar amounts at the plan level, especially in the case of omnibus level charges. In that regard, the proposed Schedule C instructions borrow from instructions in the Schedule A on determining plan-level allocation of insurance contract fees and commissions. Specifically, the Schedule C instructions permit any reasonable method of allocation to be used to estimate plan level fees for the Schedule C, provided the method is disclosed to the plan administrator. This approach provides a substantial amount of flexibility for service providers in determining the amounts to report. The DOL invites comments on this proposed method for plan level allocation of indirect compensation generated at an "omnibus" level, including whether there are particular types of indirect compensation for which it would be unduly expensive or burdensome to report a dollar amount or estimate at the plan level.

To further conform the Schedule C reporting rules to the disclosure requirements in 29 CFR 2550.408b–2, filers would be required to report "covered" service providers who have received $1,000 or more in total direct and indirect compensation (*i.e.*, money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts). As on the current Schedule C, plans would only need to report other service providers (*e.g.*, an accountant that received only direct compensation) who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts.

To make reporting of the information specific to each service provider more straightforward, instead of having repeating line items on Schedule C, the proposal would have filers use a separate Schedule C for each service provider required to be reported. With this formatting change, the proposed Line 1 of the Schedule C generally would retain the same identifying elements as the current Line 2, with the following changes. Similar to the proposal to amend the regulation at 2550.408b–2, see 79 FR 13949, 13962 (Mar. 14, 2014), this proposal seeks to add to Schedule C a requirement to report contact information for service providers that are not natural persons. Filers would be required to identify a person or office, including contact information, that the plan administer may contact with regard to the information required to be disclosed on the Schedule C.

The proposal would also clarify and expand the existing question that asks the filer to indicate generally whether the service provider has a relationship to the employer, an employee organization, or a person known to be a party-in-interest. The proposal would now state that filers should indicate any relationship of the service provider to the plan, for example, employer, plan sponsor, plan sponsor employee, plan employee, named fiduciary, employee organization, and "Other," with a description. With the prevalence of revenue sharing arrangements, the Agencies believe that better information on the relationship between service providers and the plan, various fiduciaries and parties-in-interest, including relationships among plan service providers, is important to understand the relationship between compensation and services to the plan. Under the proposal, filers would be required on Schedule C, as in the 408b–2 disclosures for pension plans, to indicate (by checking a box) whether the service providers receiving compensation are fiduciaries within the meaning of section 3(21) of ERISA.

As noted in the GAO report, *GAO Private Pensions: Targeted Revisions Could Improve Usefulness Of Form 5500 Information*, some filers have expressed confusion about how to answer the current question which requires filers to identify both service and fee codes in the same line item, despite the instruction that requires entering all codes that apply. To address this concern and to improve quality of the data, the proposal clarifies the required reporting on the types of services provided and the types of compensation received by individual service providers by separating the existing compound question into two separate reporting elements, one line item to indicate service codes and the other to indicate compensation codes. To minimize both burden and potential confusion, filers would need to report service codes for all service providers, regardless of the type of compensation received, but would only have to indicate compensation codes for indirect compensation.

A new service type would be added for information technology/computer support. "Information technology/computer support," for the purposes of Line 1c, would include computer office automation, information processing, local and wide area network support, services supporting hardware, software, telecommunications systems, including automated telephone response systems and systems security.

The proposed Schedule C instructions would continue to permit filers to offset from the total amounts of direct compensation the amounts received from a so-called ERISA recapture or ERISA budget account or similar account. Because filers are permitted to report a net figure, however, it is not possible to determine whether such an account has been used. With the increasing use of such accounts, see generally Advisory Opinion 2013–03A (Jul. 3, 2013), DOL believes it is important for the Form 5500 to indicate whether such accounts are being used as part of the plan's fee and revenue sharing structures. The proposal thus includes a "Yes"/"No" question on Schedule C's revised Line 1, to ask whether any such account or arrangement has been used by the plan during the plan year.

The proposal would also add a question asking whether the service provider arrangement includes recordkeeping services to a plan without explicit compensation for some or all of such recordkeeping services or with compensation for such recordkeeping offset or rebated in whole or in part based on other compensation received by the service provider, or an affiliate or subcontractor. If so, the filer would be required, using the same methodology used in the service provider's estimate of the cost to the plan of recordkeeping services, to enter as a dollar figure the amount of compensation the service provider received for recordkeeping services. The Agencies believe that this information will better enable a cost comparison in an environment where there are different fee structures and methods of calculating compensation.

The proposed Line 1 would also include a data element that asks whether the service provider listed on the Schedule C was also identified on Schedule A as having received insurance fees and commissions. Filers are not required to report on Schedule C insurance fees and commissions that are already reported on Schedule A. The question is designed to help users of the Form 5500 Annual Return/Report data identify service providers where some fees and commissions are reported on Schedule A and some on Schedule C.

In the proposed Line 2, filers would report direct compensation paid to the service provider by the plan. The

Agencies considered having filers break out payments as follows: Direct payments by a plan out of a plan account, charges to a plan forfeiture account, charges to fee recapture accounts, charges to a plan trust account before allocations to individual participant accounts, direct charges to individual participant accounts, and "Other," with a description. Rather than requiring that detailed breakout on the Schedule C, the Agencies concluded that they could still obtain a better picture of how the plan pays direct compensation by instead adding a breakout of how participant accounts are charged to the Schedule H "Administrative Expense" line and requiring information regarding recapture accounts in the form of a "Yes/No" question on Schedule C.

On proposed Line 3, filers would report the total amount of compensation received by the covered service provider identified in Line 1a in connection with services provided to the plan from sources other than the plan or plan sponsor, including charges against plan investments. The amount of compensation reported would include compensation received by an affiliate or subcontractor in connection with the services rendered to the plan, where the compensation is reported as part of a bundled service arrangement. Total indirect compensation would now be required to be reported as a dollar amount. The Agencies recognize that service providers accustomed to disclosing fees by way of a formula may not be able to quantify exactly the dollar amount of the compensation received during the plan year. Thus, although a dollar amount would be required, the proposal would permit reporting an estimated dollar amount. If the dollar amount is an estimate, the filer still would be required to indicate that a formula was used in determining the actual compensation paid to or received by the service provider. As with the current Line 3, filers would continue to identify the source(s) of the indirect compensation received by the covered service provider identified in Line 1, and would also identify the type of fee or compensation. For each source, filers would be required to enter a dollar figure or estimate of the amount of compensation, and, if a formula was used to calculate an estimate, a description of the formula.

To increase overall fee transparency, as well as to identify potential conflicts of interest in related party transactions, a new question would be added that would require filers to indicate whether the arrangement with each covered service provider required to be reported on Schedule C involved any related party compensation. If "Yes," the filer would be required to indicate the services for which the compensation was paid, the names of the payor(s) and recipient(s) of such compensation, status as an affiliate or subcontractor (indicated by checkbox), and the amount of the compensation.

To further ensure consistency between 29 CFR 2550.408b–2 and Schedule C, the proposed rule would also modify the instructions. The instructions, as proposed, would increase the threshold for reporting non-monetary compensation in Schedule C from $100 to $250. A corresponding change also would be made to the Schedule A instructions for reporting fees and commissions.

The proposed instructions also would clarify the requirements for reporting the travel or educational expenses of plan employees or trustees, including reimbursement, on both Schedule C and Schedule H. This clarification is being made in response to requests for further guidance following the issuance of Supplemental FAQs About the 2009 Schedule C (available at *http://www.dol.gov/ebsa/faqs/faq-sch-C-supplement.html*). The FAQs state that for Schedule C purposes, reportable compensation includes money and other things of value, such as gifts and trips, received directly or indirectly by a person from the plan in connection with services rendered to the plan or the person's position in the plan. In addition, they explain that disbursements to a plan trustee for transportation, lodging, meals, and similar expenses incurred while engaging in official plan business are considered reportable compensation. The requests for clarification argued that the DOL should not treat as reportable compensation expense reimbursements that are not treated as taxable under the Code by the IRS.

The DOL continues to believe that getting information on the value of trustee expenses, including expense reimbursement, is important for compliance purposes. It is persuaded, however, that amounts that are not taxable to the trustee need not be identified as "indirect" compensation. Therefore, the instructions would be clarified to provide that trustee and employee expense reimbursements are required to be reported on Schedule C only if the amounts are taxable compensation for trustees or employees. Should trustees receive from the plan travel, education, conferences or similar expenses, or reimbursements therefore, that exceed the limits under the Code, they would have to include them as threshold expenses for Schedule C and include the "fee code" for "reimbursement" when identifying trustee compensation. For reporting those amounts paid for or reimbursed by the plan regardless of whether they are taxable to the trustee, a proposed new breakout line item under the "administrative expenses" category would be added to Schedule H to report aggregate plan expenditures on trustee travel, meetings, education and similar expenses, whether paid directly by the plan or as a reimbursement to trustees.[23] Non-monetary compensation in the form of travel, conferences, entertainment, etc., provided by parties other than the plan, that is not *de minimis,* as defined in the instructions, would continue to be reportable indirect compensation.

The proposed Schedule C still would ask filers to identify service providers who fail or refuse to provide information to the filer, including a description of the information that the service provider failed or refused to provide. The instructions would continue to provide that filers, before identifying a fiduciary or covered service provider as a person who failed or refused to provide information on indirect compensation, should contact the fiduciary or service provider to request the necessary information. For these purposes, if a "covered" service provider has failed or refused to provide information regarding indirect compensation, that service provider would be presumed to meet the $1,000 reporting threshold.

The Agencies also continue to believe that it is important to have filers identify the termination of service providers on the annual return/report. That question, however, would be moved to the Schedule H from the Schedule C to associate it with a new compliance question, described below, asking whether any service providers were terminated. Although it would be moved to the Schedule H, the proposal would remain substantially unchanged, retaining the requirement to provide information for all terminated accountants and actuaries regardless of the reason for termination because of the importance of the involvement of actuaries and accountants in the preparation of the annual return/report. The proposal would change the questions to add a check box for the filer to indicate whether it was an accountant or actuary that was terminated. The instructions for this section would also be updated to provide a "Tip" stating that if the only reason for a change of appointment of an enrolled actuary was a temporary leave of absence due to non-work circumstances of the enrolled actuary, the filer would so indicate in the "explanation" field.

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[23] The proposed question is similar to a question that was on the Form 5500 prior to 1999. *See* 1998, Form 5500, Line 32g(8).

Along with moving the existing Schedule C question on termination of actuaries and accountants to the Schedule H, the proposal would also add a question on the Schedule H regarding the termination of any service provider for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b–2. Although not requiring identification of all service providers in all circumstances, the Agencies believe that there are service providers other than actuaries or accountants, such as fiduciaries, recordkeepers, third party administrators, and custodians who play a sufficiently important role in plan operations that information on their termination is significant. The Agencies specifically seek comments on whether the proposed new question should be limited to a narrower class of service providers or specific termination circumstances.

C. Better Quality, Accessibility, and Usability of Data (Data Mineability)

Another key component of the proposal is to make the Form 5500 Annual Return/Report more data mineable and accessible for research, policy analysis, and enforcement purposes. EBSA is responsible for collecting the Form 5500 Annual Return/Report, in part, to fulfill the statutory requirements under Sections 104 and 106 of ERISA, which require that DOL make annual reports filed under Title I of ERISA available to the public. Section 504 of the Pension Protection Act of 2006, Public Law 109–280 (PPA), requires DOL to display certain annual report information on the Internet within 90 days after filing. EBSA must also make the data from all of the reports filed under Title I of ERISA available to those seeking the information under the Freedom of Information Act (FOIA). EBSA fulfills its FOIA responsibilities by making the Form 5500 Annual Return/Report data available for downloading in bulk (see *http://www.dol.gov/ebsa/foia/foia.html*). These bulk data files, which EBSA updates at the end of each month with the Form 5500 Annual Return/Report data collected during that month, are downloaded by private-sector organizations that, in some cases, also make the data available on the Internet. Thus, most returns/reports are currently open to public inspection, and the contents are public information subject to publication on the Internet.

Mandatory e-filing, which was implemented for the 2009 Form filing year, starting January 1, 2010, has changed both the regulated community's and the government's ability to use the Form 5500 Annual Return/Report data. The data sets developed from e-filing information has been helping researchers, businesses, and other plan professionals. The Form 5500 Annual Return/Report data sets can be one of the major building blocks for a private organization to use in developing information for employees and employers on plan administration. In addition, the government can provide much more timely and complete data as a result of e-filing more cost effectively. For instance, the data sets are posted on the Internet and updated monthly. In addition, the images of the filings (facsimiles) and the scanned and uploaded attachments are made available at no cost to the requester. As indicated in the White House *Report of the Task Force on Smart Disclosure,* in commenting on the Form 5500 Annual Return/Report, "[s]mart disclosure is also helping employers and employees make decisions about 401(k) and other workplace retirement plans. These data sets can help employees better understand their retirement options and employers better understand the quality of the plans they offer, with the help of third parties that analyze the data." *Id.* at 13. The SEC has also acknowledged the importance of innovative approaches to data collection and use, citing its enhanced data mining as the basis for improvements in its enforcement efforts. *See New Investigative Approaches and Innovative Use of Data and Analytical Tools Help Drive Successful Enforcement Year, SEC,* (available at *http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543184660*).

The Agencies generally plan to continue the data publication processes currently in place and provide an even more robust Form 5500 Annual Return/Report web-based search application. This application would allow users to develop more custom queries to better target desired data. Further, this enhanced dissemination service would include options to download data in various machine-readable and open formats (such as Excel or comma separated value [CSV] files), as specified in the President's Open Data policy. Expanding the downloadable options would facilitate researching and comparing plan information. The dissemination could also support predefined queries presented in a dashboard format to graphically illustrate individual plan performance as well as performance in comparison to plans of similar size or features. Part of the goal of the proposal is to change the structure of the data filed as part of the Form 5500 Annual Return/Report in order to facilitate those applications and expand the use and usefulness of the Form 5500 Annual Return/Report data generally, as well as to make the Form 5500 Annual Return/Report a better disclosure tool.[24]

1. Structured Data Attachments

A critical way in which the Agencies propose to enhance the mineability of the Form 5500 Annual Return/Report data is by structuring and standardizing the schedules required to be attached to the form. Currently, for example, the Line 4i attachments to Schedule H (Schedule of Assets Held for Investment at End of Year, Schedule of Assets Disposed of During Plan Year and the Schedule of Reportable Transactions) cannot be searched electronically because they currently are not filed in a standardized electronic format. As a result, policymakers, the Agencies, and the public have difficulty accessing key information about the plan's investments. The Agencies' proposal to standardize the Schedule H, Line 4i Schedules of Investments is intended to be responsive to the OIG's recommendation that the Agencies create a searchable reporting format for the Schedule H, Line 4i Schedules of Assets and otherwise increase the accessibility of Form 5500 Annual Return/Report information, particularly information on hard-to value assets and multiple-employer plans. *See DOL–OIG EBSA Needs to Provide Additional Guidance and Oversight to ERISA Plans Holding Hard-To-Value Alternative Investments,* at 17. *See also Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37; see also *U.S. Gov't Accountability Office, GAO–12–665, Federal Agencies Should Collect Data And Coordinate Oversight of Multiple Employer Plans* (2012), at 30.

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[24] The Agencies believe that the proposed changes intended to improve the quality of the data, for example, eliminating compound questions, using simpler language, moving attachments into text fields that show on the face of the form or schedule when completed, and adding more definitions and instructions, would also help make the Form 5500 Annual Return/Report a more readable disclosure document. The GAO has recommended broadly that the Agencies work to improve the clarity of required disclosures. *See generally GAO Private Pensions: Clarity of Required Reports and Disclosures Could Be Improved.*

Other currently unstructured data or new elements would also be collected as structured data under the proposal, including the lists of employers participating in multiple-employer and controlled group plan members required to be attached to the Form 5500 Annual Return/Report or Form 5500–SF; the Schedule H, Line 4a Schedule of Delinquent Contributions; and the Line 4j Schedule of Reportable Transactions. The proposal also would eliminate the instructions for Schedule A that permit filing as an attachment "appropriate schedules of current rates filed with the appropriate state insurance department or by providing a statement regarding the basis of the rates in an attachment, in lieu of completing information on "Contracts With Allocated Funds." The instructions would instead direct the filer to enter a statement regarding the basis of the rates into an open text field on the Schedule A. Information on contracts with allocated contracts would therefore be completed on the Schedule A as structured data. The Agencies specifically invite comments as to whether entering a statement in an open text field on the Schedule A, relative to attaching a rate schedule(s) or statement regarding the basis of the rates, would create a significant burden or make it difficult to provide accurate information.

2. Move Information Collection From Attachments to Open Text Fields on Face of Forms and Schedules

This proposal also increases the accessibility of data by replacing some of the attachments to the schedules with text fields. Similar to the proposed specific data elements for the Schedule H Line 4i Schedules, which replace the existing suggested format for an unstructured attachment, the Agencies believe that shifting to use of text fields on the face of the schedules instead of having information be supplied in non-standard attachments concentrates information on the Form 5500 and the schedules and thus improves data mineability. For the Schedule G (Financial Transaction Schedules), the nonspecific requirement to provide "detailed descriptions" in an open text field, including a variety of elements to report loans and leases in default or uncollectible, has been replaced with individual questions on each of the elements originally required to be in the detailed description. In addition, attachments to the Schedule G in the form of "Overdue Loan Explanation" and "Overdue Lease Explanation" for loans and leases that are overdue or uncollectible would be replaced with open data fields on the face of the Schedule G. The purpose of these changes would be to standardize the information, to make the data less subject to individual variation where unwarranted, to simplify reporting on the Schedule G transactions for filers, and to make it easier to search and use the data.

The Agencies also are proposing expanded data elements on the actuarial schedules (Schedules MB and SB), including information previously reported on PDF attachments. Under the proposal, single-employer and multiemployer plans that are currently required to provide a Schedule of Active Participant Data as a PDF attachment would be required to input the data into Schedules MB and SB. Supplemental information required by enrolled actuaries who have not fully reflected regulatory requirements under ERISA or the Code in completing the Schedule MB or SB would be reported on the schedules rather than on PDF attachments. A number of questions on the Schedule SB would be required to be reported on the schedule rather than on PDF attachments. This would include reporting of information on the plan's late election to apply funding balances to quarterly installments; an adjustment to the amount of the credit balance reported in the prior year in the first year a plan is subject to the minimum funding requirements of Code section 430 or ERISA section 303; use of multiple mortality tables and substitute mortality tables; a change in non-prescribed actuarial assumptions and a method change for the current plan year; and a schedule of amortization bases.

The Agencies also propose to consolidate certain data reported on the Schedule SB on PDF or other similar attachments. The discounted employer contribution PDF attachment would be consolidated with the list of contributions currently included on the Schedule SB. Also, for plans in at-risk status for the current plan year, the PDF attachment describing the at-risk assumptions for the assumed form of payment would be consolidated with the attachment describing the other actuarial assumptions. Withdrawal liability payments will be reported separately from plan year contributions on the Schedule MB. In addition, for both Schedules SB and MB, the schedule of all amortization bases currently filed as a PDF attachment would be consolidated with the schedule of new amortization bases.

New questions would be added requiring multiemployer plans and single-employer plans that input data into the Schedule of Active Participant Data to report on the Schedules MB and SB the average age of active participants, and the average credited service of active participants as of the valuation date. Also, multiemployer plans and single-employer plans that have retired participants and beneficiaries as of the valuation date and terminated vested participants as of the valuation date would be required to input data into two new schedules on Schedules MB and SB—the Schedule of Retired Participants and Beneficiaries Receiving Payment Data and the Schedule of Terminated Vested Participant Data. This information on retired participants and beneficiaries and terminated vested participants would be reported according to age bracket, but information would not be required to be reported for an age grouping consisting of 10 or fewer participants. Additionally, all plans would report the average age and average in-pay annual benefit for retired participants and beneficiaries receiving payment. Plans with terminated vested participants would report the average age and average annual benefit, and assumed form of payment and the assumed first age of payment.

Expanding the data elements to require that new information and information previously reported on PDF attachments be reported in a data mineable format would allow for more refined projections of the financial positions of multiemployer and single-employer plans. This is especially critical for PBGC's multiemployer program, as well as for its single-employer program. Information reported in a data mineable format would also facilitate more refined projections and calculations for individual plans. Computer programs could be written to read the data and provide estimated funding calculations and projections for plans. This would provide information essential to the Agencies' enforcement efforts and for their ability to target plans with likely compliance issues. Furthermore, the availability of the data would assist private-sector auditors and auditors in validating a plan actuary's calculations.

The data would also provide new opportunities for research. Currently, there is no source of system-wide data on defined benefit pension plan participants with age, service, and average benefit levels. The availability of such data would allow for more refined projections of future coverage and benefits adequacy for plan participants and beneficiaries. As more of this data is collected over the years, the data could be analyzed to identify trends in plan coverage and benefits.

Also, proposed system-wide changes in legislation and regulations could be more effectively modeled.

As discussed in more detail below, the Agencies also propose to allow the plan actuary to sign Schedules MB and SB electronically. The plan actuary can access the EFAST2 Web site at *www.efast.dol.gov* to register for electronic credentials to sign or submit filings.

3. Plan Characteristics Codes and Other Identifying Codes Replaced With Yes/No Questions and Checkboxes on Face of Forms

In addition, the use of "codes" appearing in the instructions would be limited and refined to the extent feasible. New "Yes"/"No" and check box questions would replace most Form 5500 and Form 5500–SF questions that currently require filers to list Plan Characteristics Codes. These changes are intended to refine how data will be collected and overlay all of the other changes being proposed here. On the Schedule C, rather than entering, multiple codes to identify both types of fees/compensation and kinds of services, the filer would check as many boxes as are applicable to indicate all types of services for each provider identified. In another element that is for reporting only sources of compensation from parties other than the plan or plan sponsor, filers will separately indicate all types of fees/compensation. This is intended to improve the quality of the data, and make the Schedule C easier to read from a disclosure perspective. It is also intended to address concerns raised by the GAO about the fee and service codes. *See GAO Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 27. Comments are specifically invited regarding whether additional or different types of services or fees should be listed in order to improve the picture of service providers to the plan.

4. Compound Questions Separated

The Agencies would separate out reporting for the various types of direct filing entities to make clearer what the precise reporting requirements are for each type of entity. They would also clarify the instructions to the forms and schedules by separating compound questions. In this regard, the Agencies recognize that putting one question on each line rather than asking filers to complete multiple subsections, while streamlining the completion process, would nevertheless make some schedules appear longer, even though no additional information is actually required to be reported. This is particularly evident for Schedules C and G, both of which currently contain multiple compound questions.

5. More Detailed Identifiers, Instructions, and Definitions

The proposal adds clarifying definitions and instructions to improve the consistency of responses. For example, the proposal clarifies conventions for identifying filers by name and identifying number(s). The proposal also requires plans to use legal entity and other industry and regulatory identifiers whenever possible. These changes are intended to help the Agencies compare plan participation, investment options, and investment performance from year-to-year. It should also help mitigate confusion about the legal entities with which the plan transacts. These changes are intended to address the concerns raised by the GAO in recommending that "the Agencies develop a central repository for Employer Identification Numbers (EINs) and Plan Numbers (PNs) for filers and service providers to improve the comparability of form data across filings." *GAO Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 37.

The proposal would add more explicit instructions, for example, on reporting delinquent participant contributions and completing the Line 4i Schedules of Assets. In addition, because filers would be asked to identify plan characteristics and type through questions on the face of the Form 5500/5500–SF instead of using codes in the instructions, there are proposed instructions for various questions in this information category. These definitional changes and additions are intended to help ensure that data would be reported consistently and would be more accessible, thus improving the usefulness of the data.

D. New Group Health Plan Reporting Requirements and Information

The DOL proposes to expand reporting to all employee benefit plans providing group health benefits, including plans that claim grandfathered status and retiree-only plans.[25] Currently, generally most plans that provide group health benefits that have fewer than 100 participants meet the conditions in existing regulations at 29 CFR 2520.104–20 to be exempt from the requirement to file the Form 5500 Annual Return/Report because they are fully insured, unfunded, or a combination of unfunded and insured.[26] Although there may be sources of aggregate estimates regarding group health plans, the current lack of plan level information for employee benefit plans that provide group health benefits, especially those that have fewer than 100 participants, complicates not only DOL's ability to enforce regulations, but also diminishes the effectiveness and efficacy of EBSA's ability to develop health care regulations. The Affordable Care Act also requires the Secretary of Labor to provide Congress with an annual report, see, *e.g.,* "Self-Insured Health Benefit Plans 2015,"[27] containing general information on self-insured employee health benefit plans and financial information regarding employers that sponsor such plans. That report is supposed to be based on data contained in the Form 5500 Annual Return/Report. However, as noted above, many self-insured health benefit plans currently are not required to file annually with the DOL and, even for those that do file, the Form 5500 Annual Return/Report currently collects only limited information.

To remedy this information gap, under the proposal, all ERISA-covered plans that provide group health benefits, regardless of size, and regardless of whether funded with a trust, unfunded, or a combination unfunded/insured, would be required to file a Form 5500 Annual Return/Report, including the new Schedule J (Group Health Plan Information), as well as any other applicable schedules. However, small, fully-insured group health plans would be required to only answer a limited number of questions on the Form 5500 and the new Schedule J. The current exemptions from financial reporting on Schedule H, G, and C for insured plans, unfunded plans, and plans that are combination of unfunded/insured that meet the requirements of 29 CFR 2520.104–44 would continue to apply for all welfare plans, including group health plans, regardless of size.[28] The current exemption from financial reporting on Schedule G for welfare plans that cover fewer than 100 participants as set forth in 29 CFR 2520.104–46 would also continue to apply.

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[25] All "group health plans" that meet the definition in 733(a) of the Act, including plans that claim "grandfathered" status under 29 CFR 2950.715–1251, would be required to file a Form 5500 and applicable schedules, including the proposed Schedule J, regardless of whether such plans are exempt from certain market reform requirements under ERISA § 732(a) (exemption for certain small group health plans that have less than two participants who are current employees) or ERISA § 733(c) (group health plans consisting solely of excepted benefits). Employee welfare benefit plans as defined in ERISA § 3(1) that do not meet the definition of "group health plan" under 733 of the Act (*i.e.,* they do not provide medical care) are not subject to the proposed enhanced reporting requirements applicable to group health plans.

[26] ERISA 733(a) defines a "group health plan" as ". . . an *employee welfare benefit plan* to the extent that the plan provides medical care (as defined in paragraph (2) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise." (Emphasis added). ERISA 3(1) defines an "employee welfare benefit plan" as "any plan, fund or program which was . . . established or maintained by an employer or by an employee organization . . . to the extent that such plan, fund or program was established or is maintained for the purpose of providing for its participants or their beneficiaries . . . medical, surgical, or hospital care or benefits."

[27] Available on the DOL's Web site at: *https://www.dol.gov/ebsa/pdf/ACASelfFundedHealthPlansReport2015.pdf.*

Currently plans that provide group health benefits that have fewer than 100 participants that are not unfunded or insured (*e.g.,* funded using a trust) are not exempt under 29 CFR 2520.104–20 from the requirement to file a Form 5500 Annual Return/Report and are not exempt from the financial reporting requirements under 29 CFR 2520.104–44. These plans generally file either the Form 5500–SF or the Form 5500 and the Schedule H or Schedule I, including financial and compliance information. Under the proposed rule, plans that provide group health benefits that have fewer than 100 participants that are not unfunded or insured (*e.g.,* funded using a trust) would be required to complete the Schedule H (because Schedule I is being removed and group health plans are not permitted to use Form 5500–SF), as well as Schedule C, if applicable. However, unless such a plan is invested in alternative or hard-to-value assets, completing the Schedule H would only modestly expand the current financial and compliance reporting for the affected small welfare plans. Requiring reporting on Schedule H by these plans with fewer than 100 participants that provide group health benefits would ensure that such plans are filing at least as much financial and compliance information as other small welfare plans (those that do not provide group health benefits) that are not unfunded or insured (*e.g.,* funded using a trust), for which the reporting requirements remain largely unchanged.[29]

As indicated above, small, fully insured group health plans would be required to answer only certain questions on the Form 5500 and on the Schedule J. This limited filing, which would be similar in scope to the limited pension plan reporting for plans established under section 408 of the Code that requires such plans to complete certain Form 5500 questions and no schedules, see, *e.g.,* 2015 Form 5500 Instructions, Limited Pension Plan Reporting, is intended to serve as an annual registration statement with basic identifying and insurance information. The DOL considered whether to have small, fully insured group health plans file a separate registration statement either annually or based on certain events following the establishment of the plan (*e.g.,* initial, final, change in insurance carrier). However, we believe that it will be less burdensome to have such plans file limited information through EFAST2, using the Form 5500, particularly for those small employers that already use the system to report for their pension plans. Comments are specifically solicited in this regard.

In addition, sections 2715A and 2717 of the Public Health Service Act (PHS Act), as added by the Affordable Care Act, established new reporting requirements for non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage.[30] The DOL is considering whether a group health plan could satisfy its reporting obligations under PHS Act section 2715A and 2717, as incorporated into section 715(a)(1) of ERISA, by filing a completed Form 5500 and Schedule J, and providing that information to the parties as required under PHS Act section 2715A and 2717 (generally HHS, DOL, Treasury, State insurance commissioners, enrollees and the public).[31] Much of the information required to be reported under PHS Act sections 2715A and 2717, for example, data on enrollment, claims payment policies and practices, and claims denials is information that is to be included in the proposed Schedule J. In an effort to reduce duplicative reporting and the attendant costs to plans subject to ERISA, the DOL is specifically soliciting comments on the feasibility of such an approach as a means of compliance with PHS Act sections 2715A and 2717 as incorporated into section 715(a)(1) of ERISA.[32]

1. New Schedule J (Group Health Plan Information)

The proposed Schedule J (Group Health Plan Information) would report information about group health plan operations and ERISA compliance, plus compliance with certain provisions of the Affordable Care Act.[33] Group health plans that are part of a GIA and subject to the exemption from filing under 29 CFR 2520.104–43 would not be required to file the Schedule J. A GIA's Form 5500 Annual Return/Report filing, however, would have to include a separate Schedule J for each group health plan participating in the GIA.

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[28] Currently, welfare plans that are unfunded, fully-insured, or a combination of unfunded and insured are required to file the Form 5500, including Schedule A "Insurance Information" if applicable, but, under 29 CFR 2520.104–44, the plan is not required to engage an independent qualified public accountant and need not complete Schedules C or H. The proposal would not change these reporting provisions. Similarly, the exemption in 29 CFR 2520.104–20 from filing any Form 5500 for fully insured, unfunded, or combination small welfare plans that are not group health plans is also not being changed in this proposal.

[29] The proposal does not change the current eligibility requirements for small welfare plans that are not group health plans to use Form 5500–SF.

[30] Section 2715A of the PHS Act extends the transparency reporting provisions set forth in section 1311(e)(3) of the Affordable Care Act (applicable to issuers of "qualified health plans" offered through Exchanges) to non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage. In particular, section 1311(e)(3) of the Affordable Care Act requires disclosure of: claims payment policies and practices, periodic financial disclosures, and information on enrollment, disenrollment, number of denied claims, rating practices, out-of-network cost-sharing and payments, rights under title I of the Affordable Care Act, and other information as determined appropriate by the Secretary of Health and Human Services Section 2717 of the PHS Act requires non-grandfathered group health plans and health insurance issuers offering non-grandfathered group or individual health insurance coverage to report on quality of care metrics, for example, reporting on effective case management, care coordination, chronic disease management, and medication and care compliance initiatives. Although sections 2715A and 2717 of the PHS Act do not apply to grandfathered group health plans, the proposal is to require all group health plans subject to ERISA, including grandfathered group health plans, to file Schedule J.

[31] Nonfederal governmental plans (as defined in PHS Act section 2791(d)(8)(C)) and health insurance issuers (as defined in PHS Act section 2791(b)(2) and ERISA section 733(b)(2)) are not required to file annual reports pursuant to ERISA sections 103 or 104. Accordingly, any reporting required of such plans and issuers to satisfy PHS Act sections 2715A and 2717 will be addressed separately by HHS in future rulemakings and/or guidance.

[32] Sections 2715A and 2717 of the PHS Act are also incorporated into section 9815(a)(1) of the Code. The Treasury Department and the IRS intend to publish proposed regulations in 26 CFR 54.9815–2715A and 54.9815–2717 clarifying that group health plans required to file an annual report pursuant to section 104 of ERISA that comply with the reporting requirements in 29 CFR 2520.103–1 (including filing any required schedules to the annual report) would satisfy the reporting requirements of sections 2715A and 2717 of the PHS Act, as incorporated in the Code. Group health plans that are not required to file an annual report pursuant to section 104 of ERISA but that are subject to sections 2715A and 2717 of the PHS Act as incorporated in the Code, will not be required to do any reporting to comply with sections 2715A and 2717 of the PHS Act, as incorporated in the Code, unless and until the Treasury Department and the IRS issue subsequent further guidance or rulemaking regarding any such reporting by such plans.

[33] The Schedule J does not relate to the employer shared responsibility provisions under section 4980H of the Code, the related reporting requirements under section 6056 of the Code, or the reporting requirements for providers of minimum essential coverage under section 6055 of the Code.

The proposed Schedule J would collect information on the characteristics of the plan that is providing group health benefits, including the approximate number of participants and beneficiaries covered under the plan at the end of the plan year, and the number of persons offered and receiving coverage under the plan through COBRA, Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272, 100 Stat. 82), 29 U.S.C. 1161, *et seq.*, whether the plan offers coverage for employees, spouses, children, and/or retirees, and what type of group health benefits are offered under the plan, for example, medical/surgical, pharmacy or prescription drug, mental health/substance use disorder, wellness program, preventive care, vision, dental, or various other types of benefits. With respect to the collection of COBRA coverage information, the DOL requests comments regarding the costs and feasibility of providing this data, whether the proposed data elements would effectively show the annual take up rate and the total number of participants electing COBRA coverage, and whether any additional data elements regarding COBRA coverage would be helpful for the regulated community to evaluate COBRA's impact on plans and participants.

The DOL also proposes that plans that provide group health benefits provide information on whether their health plan funding and benefit arrangement is through a health insurance issuer and whether benefits are paid through a trust or from the general assets of the employer. Schedule J would also ask whether there were participant and/or employer contributions.[34] With respect to plans that use a prototype health insurance policy or arrangement (sometimes referred to as "off-the-shelf" plans/policies), the DOL is also requesting that such plans provide, if applicable, the relevant unique identifying information (such as a state assigned policy identification number) of the prototype/off-the-shelf policy or arrangement. The DOL requests comments on this proposed data element and whether there are specific health insurance policy identification systems employed by States or issuers that would most accurately and cost effectively provide information about usage of such policies to provide plan benefits.

Additionally, plans that provide group health benefits are asked to report whether one or more of the plan's benefit package options are claiming grandfathered status under the Affordable Care Act,[35] whether the plan is a high deductible health plan,[36] a health flexible spending account (FSA) (or includes a health FSA as a component), or a health reimbursement arrangement (HRA)[37] (or includes an HRA as a component). Please note that due to PHS Act section 2711 (prohibition on annual dollar limits) and 2713 (preventive services requirements), HRAs that are subject to the market reforms (that is, those that cover two or more active employees and do not consist solely of excepted benefits) are considered to comply with the annual dollar limit prohibition and preventive service requirement if the HRA is "integrated" with another group health plan that complies with the annual dollar limit prohibition and the preventive services requirement.[38]

The proposed Schedule J also would ask whether the plan received rebates, refunds, or reimbursements from a service provider such as a medical loss ratio (MLR) rebate under the Affordable Care Act and offset rebates from favorable claims experience. If so, filers would be required to report the type of service provider, the amount received and how the rebates were used (*e.g.*, returned to participants, premium holiday, payment of benefits, or other). In addition, the proposed Schedule J would request that group health plans identify any service providers to the plan (not already reported on Schedule A (Insurance Information) or Schedule C (Service Provider Information)) by providing the name, address, telephone number, employer identification number, and, if applicable, the National Insurance Producer Registry—National Producer Number (NPN) as established by the National Association of Insurance Commissioners (NAIC). Such service providers include a third party administrator/claims processor, including an issuer subject to an "administrative services only (ASO)" contract, mental health benefits manager, wellness program manager,[39] substance use disorder benefits manager, pharmacy benefit manager/drug provider, or independent review organization. Schedule J also asks for the total premium payment made for any "stop loss" coverage, as well as information on the attachment points of coverage, individual claim limits, and/or the aggregate claim limit contained in the policy.

For group health plans that are not required to complete a Schedule H (generally, fully insured, unfunded plans, or combination insured/unfunded plans), the proposal would require that information regarding employer and participant contributions be reported on the Schedule J, including employer contributions received, participant contributions received, employer contributions receivable, participant contributions receivable, other contributions received or receivable (including non-cash contributions) and the total of all contributions. Filers would also be required to report whether there was a failure to timely transmit participant contributions to the plan.

The proposed Schedule J also would seek claims payment data, including information on how many post-service benefit claims (benefit claims) were submitted during the plan year, how many benefit claims were approved during the plan year, how many benefit claims were denied during the plan year,[40] how many benefit claim denials were appealed during the plan year, how many appealed claims were upheld as denials, how many were payable after appeal, and whether there were any claims for benefits that were not adjudicated within the required timeframes. The proposed Schedule J would also seek data on how many pre-service claims were appealed during the plan year, and how many of those appeals were upheld during the plan year as denials and how many were approved during the plan year after appeal. With respect to group health plans, the DOL claims procedure regulation subdivides claims for benefits into various categories, including pre-service and post-service claims. A pre-service claim is defined as any claim for a benefit under a group health plan with respect to which the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care. A post-service claim is defined as any claim for a benefit under a group health plan that is not a pre-service claim. See 29 CFR 2560.503–1(m). As used throughout this proposal, "claims" includes both pre-service and post-service claims.

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[34] For purposes of Schedule J reporting, "participant contributions" include all elective contributions under a cafeteria plan (arrangement under Code section 125.).

[35] "Grandfathered" health plans generally are those that were in existence on March 23, 2010, and haven't been changed in ways that substantially cut benefits or increase costs for participants. For regulations addressing grandfathered status, see 29 CFR 2950.715–1251.

[36] A "high deductible health plan" is defined under section 223(c)(2) of the Code and generally is a plan that has a higher annual deductible than a typical health insurance plan and a maximum limit on the sum of the annual deductible and out-of-pocket medical expenses that an enrollee must pay for covered expenses.

[37] An HRA typically consists of a promise by an employer to reimburse medical expenses, including insurance premiums, for the year up to a certain amount, with unused amounts available to reimburse medical expenses in future years. See IRS Notice 2002–45.

[38] An HRA is a group health plan and is subject to the market reforms, including the prohibition of annual dollar limits for essential health benefits and the requirement to provide coverage of certain recommended preventive services without cost sharing. Regulations addressing these annual and lifetime limit prohibitions state that a stand-alone HRA offered to active employees violates these prohibitions but that an "integrated" HRA does not violate the annual limits prohibition, as long as other group health plan coverage offered with the integrated HRA complies with the market requirements. See 80 FR 72192 at 72261 (Nov. 18, 2015) and DOL Technical Release 2013–03 (Sept. 13, 2013) for a description of the lifetime and annual limit requirements applicable to HRAs, including the "integration" requirements.

[39] A "wellness program" is defined in 29 CFR 2590.702(f) to include "any program designed to promote health or prevent disease" and includes programs that condition benefits (including cost-sharing mechanisms) or the premium or employer contribution amounts on an individual satisfying a standard that is related to a health factor as well as those programs that do not include conditions for obtaining a reward that are based on an individual satisfying a standard that is related to a health factor.

In addition, plans would be asked to report whether the plan was unable to pay claims at any time during the plan year and, if so, the number of unpaid claims. Plans would also be asked to report the total dollar amount of claims paid during the plan year, and if the plan provides benefits through an insurance policy, to identify any delinquent payments to the insurance carrier within the time required by the carrier, and whether any delinquencies resulted in a lapse in coverage. The proposal would add a similar question to Schedule A; delinquencies identified on Schedule A would not need to be reported again on Schedule J.

In an effort to collect more robust data on claims adjudication practices and policies, the DOL is considering, in addition to the information requested in the new Schedule J, whether to require plans to report more information on denied claims, such as the dollar amount of claims that were denied during the plan year, the denial code, and/or whether the claims were for mental health and substance use disorder benefits or for medical/surgical benefits. Proposed Schedule J requires plans to report the dollar value of claims paid during the plan year. Analyzing this data in terms of claims adjudication practices would be limited if the dollar amount of claims denied during a plan year is not also reported. The DOL understands, however, that reporting information on denied claims may present definitional and data classification challenges, *e.g.,* possible need for a more uniform classification of denial codes for Form 5500 Annual Return/Report reporting than may currently be in place across plans and issuers. In addition, there may be a need to establish a uniform measure for "dollar amount," for example, should it be based on a provider's point-of-service fees, the schedule of fees the plan has negotiated with service providers, Medicare reimbursement rates, or state-published prevailing fees, or some other "reasonable" method for determining the dollar amount of denied claims. Therefore, the DOL is specifically seeking public comments on whether this is reasonable information to collect and, if so, the methodology a plan would employ to determine and report the "dollar amount of claims denied" during a plan year, denial code, and type of claim. Further, as noted above, the Notice of Proposed Rulemaking that is being published with this Notice includes proposed conforming amendments in 29 CFR 2590.715–2715A and 29 CFR 2590.715–2717 to clarify that compliance with the proposed annual reporting requirements by plans subject to ERISA that provide group health benefits would satisfy the reporting requirements under PHS Act sections 2715A and 2717 incorporated in ERISA through ERISA section 715(a)(1). The DOL is specifically seeking public comments in this Notice on the proposed annual reporting requirements for plans that provide group health benefits, including the new Schedule J, in light of the Supreme Court's recent decision in *Gobeille* v. *Liberty Mutual Insurance Co.,* 136 S.Ct. 936 (2016).

The proposed Schedule J would also request compliance information from plans providing group health benefits. The proposed compliance section of the Schedule J asks if all plan assets were held in trust, held by an insurance company qualified to do business in a State, or as insurance contracts or policies issued by such an insurance company consistent with section 403 of ERISA and 29 CFR 2550.403a-1 and 2550.403b-1, whether plan assets are not held in trust based on reliance on Technical Release 92–01, whether the plan's summary plan description (SPD) and summaries of any material modifications (SMM), and summary of benefits and coverage (SBC) are in compliance with the applicable content requirements, whether coverage provided by the plan is in compliance with applicable federal laws and the DOL's regulations thereunder, which may include the portability and nondiscrimination provisions of the Health Insurance Portability and Accountability Act of 1996, Title I of the Genetic Information Nondiscrimination Act of 2008, the Mental Health Parity Act of 1996, the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008, the Newborns' and Mothers' Health Protection Act of 1996, the Women's Health and Cancer Rights Act of 1998, Michelle's Law, and the Affordable Care Act. The DOL believes that self-reporting compliance information will help inform future compliance studies. Furthermore, the DOL believes that the inclusion of such compliance questions will encourage plans to evaluate whether or not they meet the group health plan requirements of ERISA, potentially increasing the voluntary compliance by ERISA plans.

Finally, the DOL would move the current questions on the Form 5500 that ask all welfare plans to report on whether they are subject to, and if so, have complied with the Form M–1 filing requirements, to the Schedule J.[41] This would limit these questions to welfare plans that provide group health benefits. Form 5500/Schedule J filers that must file the Form M–1 would not be required to answer on the Schedule J those compliance questions answered on the Form M–1.

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[40] A denial as referenced in this notice is given the same meaning as "adverse benefit determination" as defined in 29 CFR 2560.503–1(m)(4). Accordingly, a denial or adverse benefit determination is a denial, reduction, or termination of, or a failure to provide or make payments (in whole or in part) for, a benefit, including any such denial, reduction, termination, or failure to provide or make payment that is based on a determination of a participant's or beneficiary's eligibility to participate in a plan, and including, with respect to group health plans, a denial, reduction, or termination of, or a failure to provide or make payment (in whole or in part) for, a benefit resulting from the application of any utilization review, as well as a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

[41] Multiple Employer Welfare Arrangements that provide health benefits must file the M–1 with the Department. The M–1 questions, which would be unchanged under the proposal, ask whether the plan was subject to the Form M–1 filing requirements during the plan year, whether the plan is currently in compliance with the Form M–1 filing requirements, and for the filer to provide the Receipt Confirmation Code for the most recent Form M–1 that was required to be filed under the Form M–1 filing requirements.

2. Limited Form 5500 Annual Return/Report Reporting for Small, Fully Insured Group Health Plans

The DOL proposes to eliminate the current exemption from filing for small, fully insured group health plans and proposes to require only a very limited Form 5500/Schedule J filing. As noted above, the DOL has not previously collected annual report data on small welfare plans that qualify for the exemption under the regulations at 29 CFR 2520.104–20. For small fully insured plans that provide health benefits, the DOL is proposing to replace that exemption with a new limited exemption as an alternative form of reporting. Specifically, these small plans would be required to complete Lines 1–5, *i.e.* basic identifying information, on the Form 5500, and Lines 1–8 on Schedule J, *i.e.,* basic participation, coverage, insurance company, and benefit information. Requiring small, fully insured plans that provide group health benefits to file very rudimentary identifying and health benefit and coverage information would ensure that the DOL obtains basic information on all ERISA covered group health plans. Because these small, fully insured group health plans are subject to separate regulatory oversight indirectly by reason of state insurance regulation of the insurance provider and insurance contract, the DOL is seeking only basic plan and insurance information to be filed annually and is not seeking the broader Schedule J annual information requested of small self-insured and large plans regarding plan administration and benefits.

This information would allow the DOL to track total health plan counts, and coordinate its enforcement efforts relating to plans providing benefits through common issuers. For example, fully-insured plans using the same insurance provider often have documents containing provisions that are similar. Through these new filings, the DOL would be able to better identify those plans that may be affected by noncompliant provisions and better coordinate its enforcement efforts with affected service providers and other Federal and State agencies. Also, this information would enhance the DOL's policy analysis and research with respect to participant trends.

E. Proposed Changes To Enhance Compliance and Oversight

One of the critical purposes of the Form 5500 Annual Return/Report is to promote compliance both by requiring plan administrators to review particular aspects of plan operations in order to meet their annual reporting requirement and by enabling the Agencies to review basic plan compliance issues in an efficient manner. Accordingly, the Agencies propose adding a series of compliance questions on the Form 5500 and on the Form 5500–SF, and also the Form 5500–SUP for those filers who are not subject to the IRS electronic filing mandate in 26 CFR 301.6058–2 and elect to answer these questions on a paper return.

1. IRS-Only Changes

a. IRS-Only Questions for 2016 Plan Years and Form 5500–SUP

For certain years prior to 2009, the Schedules E, P, SSA, and T were required to be filed to meet annual return requirements under the Code and IRS regulations, but they were not information collections of the DOL or the PBGC. The DOL electronic filing mandate applied beginning with the 2009 Form 5500 Annual Return/Report and resulted in the last of these "IRS-only" schedules being dropped from the Form 5500 Annual Return/Report because the IRS could not mandate that these schedules be filed electronically. As "IRS-only" schedules, they were not covered by the DOL electronic filing requirement. Accordingly, with the exception of a limited number of questions on the Schedule E that were relocated to the Schedule R, the questions on these schedules were no longer included on the Form 5500 Annual Return/Report. The questions were either eliminated altogether or, in the case of questions on the Schedule SSA, added to a new IRS form, Form 8955–SSA, Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits. The 2011 TIGTA report, *The Employee Plans Function Should Continue Its Efforts to Obtain Needed Retirement Plan Information,* notes that the lack of information contained on Schedules E, P, and T can negatively impacts the IRS's ability to effectively focus on specific factors of noncompliance when selecting retirement plans for examination. This lack of information may result in the IRS selecting relatively compliant plans, which increases the burden on these plans and affects the IRS's ability to identify and focus on potentially noncompliant plans. This could result in participants receiving an incorrect amount of benefits. The IRS has decided to make changes to the Form 5500 Annual Return/Report to address these issues.

The IRS added IRS-only compliance questions to the 2015 Form 5500 and the 2015 Form 5500–SF, but subsequently directed filers not to answer the questions for 2015. The IRS is modifying some of these questions and intends to make these IRS-only questions mandatory on the 2016 Form 5500 and Form 5500–SF. See the **Federal Register** Notice "Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan" published by the IRS on March 31, 2016 (81 FR 18687). Other IRS-only questions may be added prior to the form year in which the EFAST2 contract recompete and other forms revisions are implemented. Regardless of the timing of implementation of any of the IRS-only questions on the annual return, any comments received in response to this notice with respect to these questions will be considered in future revisions of these forms.

The IRS added to the 2016 forms and schedules various questions related to common compliance problems that will make it easier for the IRS to administer the filing program. Two of the IRS-only questions added for 2016 are questions that were optional on the 2014 Form 5500 and 2014 Form 5500–SF. Both 2014 forms request information regarding the preparer of the annual return/report and the plan's trust. IRS intends that both the 2016 Form 5500 and the 2016 Form 5500–SF include a box in the signature block of the form for information regarding the preparer's name and address. Similarly, line 6 of both Schedules H and I of the 2016 Form 5500 Annual Return/Report, and line 14 of the 2016 Form 5500–SF, would request information regarding the name of the plan's trust, the trust's employer identification number (EIN), the name of the trustee or custodian, and the trustee or custodian's telephone number. This information will enable the IRS to more efficiently monitor the compliance of the retirement plan trusts exempt from tax under Code section 501(a).

The IRS also included several other compliance questions on the 2016 Forms 5500 and 5500–SF that are addressed in the 2014 Forms 5500 and 5500–SF and that require entry of plan characteristics codes. The IRS has found that characteristic codes result in inadequate responses and are commonly misunderstood by filers, and believes it would be better to enhance these codes with separate questions. For example, the IRS replaced characteristic code 2J, which identifies the plan as including a cash or deferred arrangement under Code section 401(k), with a line item on the 2016 Forms 5500 and 5500–SF. Similarly, Code 3D, a characteristic code that currently applies to pre-approved pension plans, is replaced with a separate line item on the 2016 Forms 5500 and 5500–SF.

The IRS also added two questions for 2016 that were questions on the Schedule T, Qualified Pension Plan Coverage Information, before it was eliminated. Specifically, line 4b of the Schedule T asked if the employer aggregated plans in testing whether the plan satisfied the nondiscrimination and coverage tests of Code sections 401(a)(4) and 410(b). Also, line 4f of the Schedule T asked whether the plan satisfied the coverage requirements of Code section 410(b) on the basis of either the ratio percentage test or the average benefit test. These questions were added to the 2016 Forms 5500 and 5500–SF. These questions are helpful to the IRS when performing pre-audit analysis and allowed the IRS to narrow any inquiries when information was requested from the plan. The return of these questions also reflects the elimination of optional coverage and nondiscrimination demonstrations in the IRS determination letter process. *See* Rev. Proc. 2015–6, 2015–1 I.R.B. 198 and Announcement 2011–82, 2011–52 I.R.B. 1052.

The IRS also added other IRS-only questions to the 2016 Forms 5500 and 5500–SF in order to address various compliance issues. Specifically, there are new questions as to whether the plan sponsor used the design-based safe harbor rules, the current year ADP test, or prior year ADP test for nonhighly compensated employees in accordance with 26 CFR 1.401(k)–2(a)(2)(iii) to satisfy the nondiscrimination requirements of Code sections 401(k)(12), (13). The IRS also added questions as to whether the employer is an adopter of a master and prototype plan or a volume submitter plan that is subject to a favorable opinion or advisory letter from the IRS, and the date of that favorable letter. This question will help determine the plan's remedial amendment period and remedial amendment cycle under Code section 401(b) and Rev. Proc. 2007–44, 2007–28 I.R.B. 54 (as modified by Rev. Proc. 2008–56, 2008–2 C.B. 826; and Rev. Proc. 2009–36, 2009–2 C.B.304); Notice 2009–97, 2009–2 C.B. 972; and Notice 2010–48, 2010–27 I.R.B. 9. The IRS added a similar question for individually-designed plans as to whether an individually designed plan received a favorable determination letter from the IRS. The IRS has found that issues have arisen regarding the failure of plan sponsors to make timely amendments to their plan document to reflect changes in the law.

The IRS also added a question to the 2016 Forms 5500 and 5500–SF as to whether any distributions during the plan year were made to an employee who attained age 62 and had not separated from service for defined benefit plans or money purchase pension plans. The IRS has found various qualification and taxability issues related to such distributions.

Those filers who are required by the electronic filing regulations to file the Form 5500 Annual Return/Report electronically will be required to answer these IRS compliance questions electronically using EFAST2 for the 2016 and later plan years. The IRS will provide a paper-only form containing these IRS compliance items for use by filers who are not subject to the electronic filing requirements of the Treasury regulations and who elect not to answer the questions through EFAST2. A draft of the paper-only form, Form 5500–SUP, Annual Return of Employee Benefit Plan Supplemental Information, was released for public comment in October, 2014. The 2016 Form 5500–SUP is expected to be modified to reflect the changes proposed for 2016 plan year.

b. IRS-Only Questions for Later Plan Years

In addition to the questions the IRS included on the 2016 Forms 5500 and 5500–SF, the IRS proposes to add new questions for later plan years. Some of these additional questions were previously included on the 2008 Schedule E (ESOP Annual Information). Specifically, Line 1a of the 2008 Schedule E asked whether the ESOP is maintained by an S corporation and, if so, whether any prohibited allocations were made to any disqualified persons. Line 2b of the Schedule E asked whether the employer maintaining the ESOP paid dividends deductible under Code section 404(k). Line 4 of the 2008 Schedule E asked if the ESOP held any preferred stock and under what formula that preferred stock was convertible into common stock. Line 6 of the 2008 Schedule E asked if any unallocated securities were used to pay an exempt loan and, if so, asked for the method used. Line 16 of the 2008 Schedule E asked if the employer made payments in redemption of stock held by an ESOP to terminating participants and deducted them under Code section 404(k). All of these questions will be added to the new Schedule E, ESOP Annual Information. The IRS notes that any questions added to the proposed Schedule E with respect to Code section 404(k) will be included pursuant to Code section 6047(e) rather than Code section 6058 (the section pursuant to which the other IRS-only question are included on the Form 5500). Thus, the disclosure rules of Code section 6104(b) are not applicable and a separate process will need to be in place so that any information provided with respect to Code section 404(k) will be compliant with the appropriate disclosure rules.

The IRS also proposes to add three questions to the Forms 5500 and 5500–SF that will insure that the filers are aware of certain Code requirements in areas where the IRS has found significant noncompliance. In the first area, the IRS proposes to add a question for defined benefit pension plans as to whether the plans comply with the participation requirements of Code section 401(a)(26). In the second, the IRS proposes to ask whether minimum required distributions were made to 5% owners in accordance with Code section 401(a)(9). This question addresses issues as to the qualification of the plan, the taxability of distributions, and the possible imposition of excise taxes under Code section 4974. In the third, the IRS proposes to add a question as to whether hardship distributions were made during the plan year for a section 401(k) plan. The IRS has found various qualification and taxability issues related to such distributions.

The IRS also proposes to add a question to the Forms 5500 and 5500–SF as to whether the plan provides for designated Roth contributions under Code section 402A. The question would identify plans that have added Roth contribution features. Designated Roth contributions and Roth conversions add a new layer of recordkeeping and tax reporting for plan administration, and the IRS has found various issues related to recordkeeping and reporting.

As noted previously, because the plan characteristics codes sometimes provide inadequate responses and are commonly misunderstood by filers, the IRS proposes to replace these codes with separate questions to the Forms 5500 and 5500–SF. For example, the IRS proposes to replace characteristic codes 2L and 2M regarding Code sections 403(b)(1) and 403(b)(7) arrangements with separate line items. Also, characteristic code 1I currently applies to frozen defined benefit pension plans that do not provide any new benefit accruals as of the last day of the plan year. Neither the Form 5500 nor the Form 5500–SF, however, currently requests similar information regarding frozen defined contribution pension plans. The IRS proposes to add a question to these forms for defined contribution pension plans asking whether the plans are frozen.

The IRS also proposes to add a line item to the Forms 5500 and 5500–SF for plans electing non-church plan status under Code section 410(d). 26 CFR 1.410(d)–1(c)(3) provides that a plan administrator may elect non-church plan status by attaching a statement to the Form 5500 Annual Return/Report. Although such statements can be attached to the EFAST2 filing as a PDF, the proposed change would facilitate the process by which the IRS determines which plans have elected non-church plan status and thus allow the IRS to apply the appropriate criteria in determining compliance.

There also is a new IRS question on the Schedule H and Form 5500–SF regarding unrelated business taxable income (UBTI) under Code sections 511 and 512. Although qualified plans are generally required to report UBTI on Form 990–T, Exempt Organization Business Income Tax Return, the IRS has found it difficult to get timely information regarding this taxable income.

Lastly, a trustee's signature would be added in the trustee information section on the Schedule H and the Form 5500–SF. The signature is intended to satisfy the requirements under Code section 6033(a) for an annual information return from every Code section 401(a) organization exempt from tax under Code section 501(a). As discussed in more detail below, because this is an IRS-only signature, filers who file fewer than 250 returns during the year will be able to satisfy this signature requirement by filing the Form 5500–SUP.

c. New Schedule for IRS-Only Compliance Questions

As noted above, the IRS proposes to add various IRS-only questions to the Form 5500 Annual Return/Report and to the Form 5500–SF and also issue a Form 5500–SUP for those filers who are not subject to the IRS electronic filing mandate in 26 CFR 301.6058–2 and elect to answer these questions on a paper return. These new IRS-only compliance questions do not apply to welfare plans. With respect to the Form 5500 and the Form 5500–SF, the IRS is considering whether these questions should be added to these forms individually based on subject matter or whether they should be added collectively on a single IRS-only schedule. If the questions are added individually, they would appear on the forms and schedules based on subject matter. Thus, for example, ESOP questions would appear on a new Schedule E while other compliance questions may appear on Form 5500–SF and revised Schedules H, MB, R, and SB. On the other hand, if these IRS compliance questions are added collectively, they would appear on a completely new IRS-only schedule. Comments are specifically requested as to whether a separate schedule that would include all of the IRS-only questions should be made part of the Form 5500 Annual Return/Report

2. New Schedule H and Form 5500–SF Compliance Questions

An area of particular recent focus for DOL has been compliance with ERISA section 411. Accordingly, the proposal would add a new question under Part IV of Schedule H asking whether any person disqualified under ERISA section 411 was permitted to serve the plan. ERISA section 411 disqualifies people who have been convicted of certain crimes from serving as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, consultant, or adviser of any employee benefit plan for a specified period. The statute also prohibits people who are currently disqualified from representing a plan in any capacity, and from having any decision-making authority or custody or control of the monies, funds, assets, or property of an employee benefit plan. This proposed question on disqualification would facilitate competent plan administration and improve due diligence by encouraging the plan administrator to determine whether any of the plan's fiduciaries, employees, and service providers potentially participated in an act prohibited by ERISA section 411.

Another proposed compliance question, which also supports the Agencies' goals in obtaining better information on investments and related fees for defined contribution pension plans, involves whether the plan is a participant-directed account plan, and, if so, whether the plan provided participants with the fee disclosures required by 29 CFR 2550.404a–5. As discussed earlier with respect to the Form 5500–SF, the proposal also requires administrators to attach the comparison chart to Schedule H. These questions would help plan administrators comply with 29 CFR 2550.404a–5. This proposed question is also responsive to the GAO's recommendation that the Agencies seek specific information on QDIAs. *GAO Targeted Revisions Could Improve Usefulness of Form 5500 Information,* at 18. A plan that is a participant-directed account plan also must report the number of DIAs under the plan, the number of DIAs that are index funds, and whether a designated investment manager (DIM) was made available to participants and beneficiaries. These new questions appear on both Schedule H and on the Form 5500–SF.

The proposal also would add a new compliance question asking whether the employer sponsoring the plan paid administrative expenses that were not reported as service provider compensation on Schedule C or a plan administrative expense on Schedule H. Where the only compensation received by a service provider in connection with a plan is direct payment from the plan sponsor, the information is not required to be reported on Schedule C. To minimize burden, while still providing a clearer picture on the Form 5500 Annual Return/Report of all service providers to plans, regardless of who pays those service providers, the Agencies are proposing only to ask whether the plan has any such service providers rather than require identification and other Schedule C information for such service providers. The Agencies are requesting comments on whether there should be a minimum threshold compensation amount for this question and, if so, what the amount should be.

The proposal also would add a question asking whether the plan sponsor or its affiliates provided any services to the plan in exchange for direct or indirect compensation. This information would help the Agencies obtain a complete picture of the relationship between the plan and the plan sponsor, including the extent to which the sponsor may also be acting as a fiduciary or service provider. An affirmative answer may indicate potential conflicts of interest and would be useful for DOL enforcement.

Another proposed compliance question would require filers to indicate whether the plan had any leveraged investment acquisitions, the total amount of those acquisitions, and the ratio of the leveraged investments to total plan assets. In addition to helping ensure that the plan administrator has a complete picture of the potential risk and reward associated with the plan's assets, these questions would improve the Agencies' understanding of plan operations. Plans with a high ratio of leveraged investments, such as options, futures, and margin-type investments, may be at greater risk. By identifying these plans, the Agencies would be better able to target and track performance of high-risk plans. This question would only be added to the Schedule H, and not the Form 5500–SF. Leveraged investments are not "eligible plan assets" for purposes of the Form 5500–SF. Small plans that have such investments must file the Form 5500.

In the existing section regarding the IQPA report, filers would be required to indicate whether the accountant orally or in writing communicated various governance issues discovered during the audit, including errors or irregularities, illegal acts, material internal control weaknesses, and the existence of plan qualification issues. This question is intended to enhance compliance by highlighting the existing duty of the plan administrator to read and review the audit report and, if necessary, to engage in a discussion with the auditor about the report's contents. In addition to helping the plan administrator ensure that the audit is comprehensive, the answers to these questions would provide participants with information about potential problems with the management of plan assets. Also, in situations where the plan administrator reports that the auditor has identified problems with the audit, the Agencies would have an opportunity to conduct a closer review of the plan's finances.

In addition to the existing question asking whether the IQPA has relied on the limited scope audit provisions in 29 CFR 2520.103–8, the proposal would require filers to attach the certification of investment information created by certain banks or insurance companies to ensure the plan is qualified to be subject to a limited scope audit. This change would also encourage plan administrators to maintain documentation consistent with the limited scope audit requirements. The change is being made in conjunction with revisions to the DOL's regulation at 29 CFR 2520.103–8 to set forth specific requirements for the attachment, including the requirement that the certification appear on a separate document from the list of plan assets covered by the certification, which list generally would be required to be reported on the Schedule H, Line 4i Schedules of Assets, using the structured data entry format through EFAST.

The required attachment of the proposed, updated certification would also make the Agencies' review of limited scope audits more robust by enabling them to follow up on plans that use the limited scope exemption but fail to attach the necessary certification. See *DOL–OIG: Changes Are Still Needed in the ERISA Audit Process to Increase Protections for Employee Benefit Plan Participants* at 17 (EBSA should improve the quality of its audit documentation reviews by adding procedures to ensure that "all plan assets are either certified by a qualifying financial institution or tested by the IQPA"). Obtaining the certification would also allow EBSA to better determine which of the plan's assets are subject to a limited scope audit and which require a full IQPA report. *Id.* at 4 ("EBSA's review guide did not specifically address audits in which the plan custodian certified some, but not all, plan assets in limited scope audits.")

The Agencies also propose standardizing information reported on Schedule H, Line 4a, to foster filers' compliance with regulations and guidance governing delinquent participant contributions and loan repayments. Under the proposed changes, filers would complete a standardized, structured attachment that includes information about whether the correction of the delinquency was made within or outside of the Voluntary Fiduciary Correction Program (VFCP) and Prohibited Transaction Exemption 2002–51. As under the current requirements, filers must continue to report the deficiency until correction is made. The proposed changes also facilitate accurate reporting by requiring the delinquent contribution information to be included in supplemental schedules. Including such information in supplemental schedules would help ensure that IQPAs address delinquent contributions and loan repayments in their audit reports, consistent with generally accepted auditing standards.

The proposal also includes new questions on Schedule G (Financial Transaction Schedules). To gather additional information about the plan's transactions and relationships, especially nonexempt prohibited transactions, the Agencies propose asking for more detailed information about the nature of nonexempt prohibited transactions engaged in by the plan. In addition to the current requirement to provide the name and contact information for the parties involved with the nonexempt transaction, and their relationship to the plan, employer, employee organization, plan sponsor, or other party-in-interest, the proposal asks filers to check a box indicating the nature of the nonexempt transaction. The check boxes generally follow the prohibitions of ERISA section 406 and Code section 4975 and include, for example, sale of any property to/from the plan, exchange of any property, lease of any property to/from the plan, lending of money to/from the plan, other extension of credit to/from the plan, furnishing of goods to/from the plan, etc. The proposal also asks a new question about whether the transaction is discrete or ongoing and whether the transaction has been fully corrected, either through or outside of the VFCP. The proposal also asks for the date the transaction was fully corrected, a description of the corrective action and whether, if a nonexempt transaction occurred with respect to a disqualified person, and the person was notified, a Form 5330 was filed with the IRS to pay the excise tax on the transaction.

The proposal would add new line items on Schedule A for reporting whether any premium payments were overdue and, if so, the amount delinquent, and whether there was a policy or contract reported on the Schedule that was issued by an insurance company wholly owned by the plan or the plan sponsor. An affirmative answer to questions on delinquent premium payments and whether the plans holds a contract issued by an insurance company that is wholly owned by the plan or plan sponsor would alert DOL to potential insurance cancellation and other conflict of interest issues.

The DOL issued new guidance in 2015 regarding economically targeted investments (ETIs) made by ERISA-covered retirement plans. ETIs are investments that are selected for benefits they create in addition to the investment return to the employee benefit plan investor. The DOL previously addressed issues relating to ETIs in Interpretive Bulletin 94–1, 29 CFR 2509.94–1 (IB 94–1) and Interpretive Bulletin 2008–1, 29 CFR 2509.08–1 (IB 2008–1). IB 94–1 had corrected a misperception that investments in ETIs are incompatible with ERISA's fiduciary obligations. On October 17, 2008, the department replaced IB 94–1 with IB 2008–01. However, the DOL concluded that in the seven years since its publication, IB 2008–01 had unduly discouraged fiduciaries from considering ETIs and environmental, social and governance ("ESG") factors under appropriate circumstances, and issued Interpretive Bulletin 2015–01, 29 CFR 2509.2015–1 (IB–2015–1).

IB–2015–1 confirmed the DOL's longstanding view from IB 94–1 that fiduciaries may not accept lower expected returns or take on greater risks in order to secure collateral benefits, but may take such benefits into account as "tiebreakers" when investments are otherwise equal with respect to their economic and financial characteristics. IB–2015–1 also acknowledges that ESG factors may have a direct relationship to the economic and financial value of an investment. When they do, these factors are more than just tiebreakers, but rather are proper components of the fiduciary's analysis of the economic and financial merits of competing investment choices.

Changes in the financial markets, particularly improved metrics and tools allowing for better analyses of investments, are enabling plan fiduciaries to make better and more evidence-based decisions on ETIs and ESG factors in evaluating the merits of competing investment choices. Some private sector sources are developing structured ESG research data for evaluating corporate performance. The DOL is interested in public comments, including analysis on costs and benefits, on whether collecting information related to ETI and ESG investment activities of ERISA-covered plans on the Form 5500, such as whether plans incorporate ESG factors into their investment analysis, would add value to this growing data source and allow ERISA fiduciaries to more easily consider the role ESG factors could or should play in their investment decisions. The DOL requests comments regarding the best way to use the Form 5500 to collect information with respect to ESG investment activities that is standardized, comparable, and reliable For example, public companies are already subject to requirements to disclose material risks, including relevant risks associated with climate change, per Securities and Exchange Commission Interpretation: Commission Guidance Regarding Disclosure Related to Climate Change [Release Nos. 33–9106; 34–61469; FR–82]. The DOL specifically requests comments on whether we could use the SEC disclosure requirements for public companies as a basis for a Form 5500 information collection.

3. Schedules MB and SB—New Questions and Identifying Information for Attachments

The Agencies are proposing to add new questions to the actuarial schedules (Schedules MB and SB) to enhance compliance. On the Schedule SB, reporting of the target normal cost would be revised to separate out the plan-related expenses. By requiring this breakdown, the Agencies and other users of Schedule SB data such as firms conducting actuarial research would be able to more accurately project liabilities and future required contributions.

The Agencies also propose to add a new question to the Schedule SB to require single-employer plans with 500 or more participants as of the valuation date to report projections of expected benefit payments to be paid for the entire plan (not including expected expenses) for each of the next ten plan years starting with the plan year to which the filing relates. For this purpose the plan would assume that there were no additional accruals, experience (*e.g.*, termination, mortality, and retirement) consistent with the plan's valuation assumptions, and that no new entrants would be covered by the plan. The requirement would not be applicable to plans with fewer than 500 participants as of the valuation date. This information would enable the Agencies to determine how much of a plan's assets are needed to pay benefits to participants. This information would also help in assessing the adequacy of current assets and contributions to satisfy the disclosed benefit commitments. In March 2015, PBGC asked OMB to approve, and in June 2015, OMB approved adding a similar question for the 2015 Schedule MB, to be reported on a PDF attachment. The Agencies are now proposing that the question be added to the Schedule MB itself.

4. Form 5500 and Form 5500–SF PBGC Compliance Questions

For 2016, PBGC is proposing to add a question to the existing question on Schedules H and I, Line 5c, that asks, if a plan is a defined benefit plan, whether it is covered by the PBGC insurance program. The new question would ask filers that checked the box "Yes" to enter the My PAA generated confirmation number for the PBGC premium filing for this plan year. In this proposal, PBGC is proposing moving the questions to the Form 5500 and Form 5500–SF. In comparing Form 5500 Annual Return/Report data to PBGC premium filing data, the agency has found PBGC-covered plans for which no premiums have been paid and filers incorrectly claiming that they have PBGC-covered plans. By requiring reporting of the My PAA generated confirmation number on the Form 5500 and Form 5500–SF, PBGC will be better able to match Form 5500 Annual Return/Report filings to PBGC premium filings, bring in new premium filings, as well as improve the data collected on the Forms. Also, for the 21st Century initiative changes, the Agencies are proposing to move Line 5c on Schedule H and I to Line 9a(4) of the Form 5500 and Line 12a(4) of the Form 5500–SF. The new question described above about PBGC premium filings would be added to these lines.

F. Miscellaneous Technical and Conforming Changes for Forms and Instructions

Various other technical and conforming changes to the forms, schedules, and instructions are being proposed as part of the substantial restructuring of the Form 5500 Annual Return/Report described in this notice. Several of the more significant of these changes are as follows.

On both the Form 5500 and the Form 5500–SF, filers that check the "single-employer plan" box in accordance with the instructions, but which have multiple employers obligated to contribute to the plan that are members of a controlled group, would be required to file an attachment identifying the participating employers. This requirement would be similar to the requirement, effective with the 2014 annual return/report forms, to attach a list of participating employers with a good faith percentage of the contributions to the plan of each participating employer, for plans that file as "multiple-employer" plans. To implement ERISA section 103(g) resulting from the Cooperative and Small Employer Charity Pension Flexibility Act (CSEC Act), Public Law 113–97, 128 Stat. 1101 (April 7, 2014), the DOL published an interim final rule in November 2014, 79 FR 66617 (Nov. 10, 2014). The DOL intends that the CSEC Act reporting changes will be made final effective with the implementation of final forms revisions following this proposal. Under the CSEC Act interim final rule, filers that check the "multiple-employer plan" box are required to provide a list of participating employers and a good faith estimate of the percentage of total contributions made by each participating employer during the plan year. The DOL received four comments on the interim final rule and six additional comments on an emergency PRA submission published separately.

A central concern of the commenters is that the list of participating employers is essentially the client list developed by entities that sponsor multiple-employer plans for professional employer organizations (PEOs) or other associations. The commenters asserted that the publication of the participating employer information could negatively affect their business model by enabling competitors to target client employers. These commenters suggested that the DOL could not implement the CSEC Act law change by asking for the required information to be reported on the Form 5500 because the list of employers is proprietary information. Certain commenters suggested, in the alternative, that if the information was required to be reported, it should not be publicly disclosed. One commenter suggested that the DOL should not apply the requirement to defined contribution or welfare plans because the CSEC legislation focused on ERISA minimum funding requirements which do not apply to the majority of defined contribution pension plans or to any group health and welfare plans. That commenter suggested that the DOL could instead obtain the participating employer information through the use of its subpoena authority or could limit the requirement by providing an alternate method of compliance. The commenter also suggested allowing plans that are multiple employer welfare arrangements (MEWAs) that fund benefits through VEBAs to satisfy the employer list requirement by submitting the VEBA information and either removing the contribution requirement entirely or clarifying that the filers need only include gross contribution information rather than break out the information by employers and employees.[42]

The DOL has considered these comments but has decided not to make changes to the multiple-employer plan reporting requirements described in the interim final rule. The CSEC Act makes provision of participating employer information a reporting requirement under section 103 of ERISA. Section 104(a)(1) of ERISA provides generally that the contents of the annual report must be open for public inspection. The DOL continues to believe that the reporting requirements made effective for the 2014 form year by the interim final rule are a reasonable and appropriate way to implement Congress's directive in the CSEC Act.

Furthermore, the Agencies believe that this information is important for plan oversight, research, and enforcement purposes. Because participating employers generally are not otherwise identified on the Form 5500 or its schedules,[43] the Agencies have no other information on the number or identity of participating employers in multiple-employer plans. The Agencies also believe that similar information would be helpful for participating members of a plan that covers members of a controlled group that files under the reporting rules as a "single-employer" plan. Accordingly, under the proposal, a new check box would be added for a plan to identify that it covers members of a controlled group. Plans checking that box would be required to provide the same basic identifying and contribution information as are multiple-employer plans under the CSEC Act changes.

The Form 5500, as proposed, would ask filers to identify and provide contact information for the "named fiduciary" under ERISA section 3(21). The Agencies note that as for any other address and identifying information required on the annual return/report, named fiduciary addresses and phone numbers (and those of the employer and plan administrator) should be the actual addresses and phone numbers for those entities/individuals and not the address of a service provider or entity that is completing the filing. This has been an area of inaccurate data entry as the entity that fills out the form has not always entered correct data in correct boxes. As a result, the data is misleading for participants and beneficiaries and for the Agencies.

New breakout questions would be added to both the Form 5500 and the Form 5500–SF, for defined contribution pension plans to report the number of participants with account balances as of the beginning of the plan year; the number of participants that made contributions during the plan year; and the number of participants that terminated employment during the plan year that had their entire account balance distributed.

The following new information would also be required to be reported on the Form 5500 or Form 5500–SF in the questions that are intended to replace the current plan characteristics code structure:

1. The current requirement for defined benefit pension plans to identify whether the filing is for a frozen plan would be extended to defined contribution pension plans.

2. Defined contribution pension plans would now be required to identify whether the plan is a SIMPLE 401(k) plan under Code sections 401(k)(11) and 401(m)(10).

3. Defined contribution pension plans would now be required to identify whether the plan has a designated Roth feature.

4. Defined contribution pension plans that have participant-directed brokerage accounts would now be required to enter the number of participants using such accounts during the plan year.

5. Defined contribution pension plans would have to indicate whether the plan has an intended qualified default investment alternative(s) (QDIA) and, if so, to indicate the type(s) of alternative(s).

6. Pension plans would be required to report if the plan is an eligible combined plan under Code section 414(x).

7. Pension plans would be required to report if a rollover from a plan was used to start up the business sponsoring the plan (a Rollovers as Business Start-Ups or ROBS transaction).

8. Pension plans would be required to report if the plan is electing church plan status under Code Section 410(d).

9. Defined contributions pension plans would be required to indicate whether they provide financial education and/or financial advice for participants.

10. Plans would be required to report if the plan provides long term care insurance.

11. On the Form 5500, plans that provide group health benefits would have to indicate, more specifically, whether they provide medical/surgical benefits, pharmacy or prescription drug benefits, mental health/substance use disorder benefits, wellness program, preventive care services, emergency services, and pregnancy benefits.

The signature section on the Form 5500 would be revised to add a checkbox to indicate whether the plan is a Taft-Hartley plan and to provide a dedicated signature area for both a "management" and a "labor" trustee.

In addition to the changes described above, the Schedule A and its instructions would be clarified to specify that the plan is required to report the insurance carrier's NAIC "Company Code," when reporting the "NAIC number." Plans that provide group health benefits through an insurance contract would also be required to provide the insurance carrier's required health plan identification number (HPID) under the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Schedule J would require filers to provide the NAIC Producer Code if there is a stop loss policy associated with the plan's obligation to pay health benefits. The Agencies invite comment on whether a particular NAIC type number or other identifying number, as well as the HPID, would be best to produce the most consistent and accurate identifier of insurance companies required to be identified on the Form 5500 Annual Return/Report.

On new Line 2 of the Schedule A, plans would be required to report if the policy or contract was issued by an insurance company that is wholly owned by the plan or the plan sponsor.

The current questions and instructions on Schedule A for persons covered under an insurance contract that reported on Schedule A would be clarified and expanded. The instructions are clarified to make explicit that the existing requirement to report the approximate number of persons includes participants, beneficiaries, and dependents covered under the contract. For welfare benefit contracts, the question has also been particularized to require the approximate number of persons covered for each type of benefit.

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[42] The DOL notes that the CSEC Act reporting requirements only apply to multiple-employer plans and thus the requirement only applies to those MEWAs that are in fact plans. Individual plans participating in a non-plan MEWA must file their own Form 5500 Annual Return/Report unless otherwise exempt.

[43] In a requirement added under the PPA, filers are required to provide certain information on Schedule R, for each employer that contributed more than 5% of total contributions to a multiemployer defined benefit pension plan during the plan year (measured in dollars).

To improve the data, there would be new checkboxes on the Schedule A to enable filers to indicate whether the contract covered accidental death and disability (AD&D) or long term care insurance. The existing element on the Schedule A to identify that plan assets are in insurance company "pooled separate accounts" would be broken into "pooled separate accounts" and "other" separate accounts. If "other," filers would be required to enter a description of the separate account. Plans that provide life insurance would be required to indicate, on Schedule A, whether a life insurance contract is "term life" or "other." If the life insurance contract is other than "term life," the filer would continue to have to enter a description.

The Schedule C instructions with regard to exceptions for reporting employees whose compensation is less than $25,000 would be clarified to provide that, for Schedule C purposes, compensation does not include the employer portion of FICA and FUTA taxes as part of the total compensation of an employee. It does, however, include salary, bonuses, overtime, and all indirect compensation from persons other than the plan received in connection with the person's position with the plan or services provided to the plan. As discussed above, the instructions would be modified to specify that expenses for travel, education, conferences, meals, etc., whether paid directly by the plan or reimbursed to the employee, have to be included in determining total compensation of plan employees, but only if such payments would be reportable as taxable income to the employee.

As with similar clarifying changes to Schedule C and the Schedule H, Line 4i Schedules of Assets, plans would now be required to report on Schedule A the relationship to the plan, employer, employee organization, sponsor, fiduciary, or other party-in-interest of the agent, broker, or other person to whom commissions or fees were paid.

When reporting on Schedule A that an insurance company failed to provide the information needed to complete the annual return/report, if it is "fee and commission" information that is not provided, then filers would only need to check a box to so indicate. Filers would continue to have a place to describe other types of information.

In addition to the changes described above to the Schedule H, filers would be required to report, in the existing section on the IQPA report on the Schedule H, the state in which the IQPA report was issued.

The existing questions for Form 5500 Annual Return/Report filers to indicate plan funding and benefit arrangements would be added to the Form 5500–SF.

In response to the concerns of certain practitioners regarding their ability to comply with filing requirements where PBGC has trusteed a plan and there is no longer a plan administrator to complete the filing or the ability to pay a service provider for the work necessary to fulfill the filing obligation, the Agencies are proposing to simplify the final filing requirements for plans trusteed by PBGC that have 500 or fewer participants.

Specifically, the question on whether the plan has come under the trusteeship of the PBGC would be moved from current plan characteristic code 1H on the Form 5500 and part of Line 4k on the Schedule H and Line 13b on the Form 5500–SF to a checkbox on Part I of the Form 5500. Form 5500 Annual Return/Report filers that, as of the date the return/report is filed but not later than the due date of the return/report with automatic extension, have been trusteed by PBGC under section 4041(c) or 4042 of ERISA, would be required to check that box and enter the date of PBGC trusteeship in the space provided. Plans with 500 or fewer participants (see Part II, Line 6, asking for participant count) that check this box would be required to complete all of Part I and Lines 1, 2, 3, 6, 9a(3) and 9a(4) of Part II; this would be the last Form 5500 Annual Return/Report they would need to file. Form 5500 Annual Return/Report filers with plans with more than 500 participants (in Part II, Line 6) would be required to complete the Form 5500 in the same manner as they have in the past and would need to file a Form 5500 for a following short plan year (depending on when the plan was trusteed).

Similarly, Form 5500–SF filers with plans that, as of the date the return/report is filed but not later than the due date of the return/report with automatic extension, have been trusteed by PBGC under section 4041(c) or 4042 of ERISA, would be required to check a box in Part 1A and enter the date of PBGC trusteeship in the space provided. Plans that check this box would be required to complete all of Part I and Lines 1, 2, 3, 5 (if applicable), 6, 9a(3) and 9a(4) of Part II.

The proposal to simplify final filing requirements is limited to PBGC-trusteed plans with 500 or fewer participants for a number of reasons. PBGC generally needs the information contained in the final annual return/report to calculate its claims for underfunding and unpaid minimum funding contributions, to prepare its financial statements, and to value participant benefits. Larger plans tend to have more complex asset structures and include hard-to-value assets, while smaller plans are more likely to lack the resources needed to meet their actuarial and filing obligations for the final plan year and final short plan year. It has been primarily representatives of small plans that have contacted PBGC and DOL to request relief from filing requirements for PBGC-trusteed plans.

In PBGC's experience, larger plans usually comply with the filing requirement for the final plan year and the final short plan year. The companies that maintain these larger plans typically build the cost of plan administration into their balance sheets, even if the plan is terminated in an involuntary or distress termination. Moreover, in PBGC's experience, for most larger plans, the cost of filing the annual return/report is paid from plan assets. Even when paid by the plan sponsor, PBGC believes that the cost of filing for a larger plan is a relatively insignificant component of the sponsor's overall business expenses.

PBGC also believes that exempting larger plans from completing certain schedules or sections of the annual return/report would not result in a meaningful cost savings to the plan sponsor and could result in the inability to compile important information in the event that the plan is terminated. An involuntary or distress termination involves a complex actuarial and economic analysis by PBGC that may continue for a year or more and does not always result in termination. The process of preparing the annual return/report continues through and beyond the plan year. PBGC believes that limiting the reporting obligations for larger plans anticipating termination might cause a plan to stop the ongoing process that culminates with the filing, even though a termination is not ultimately approved. This would significantly impair PBGC's actuarial and financial analysis for the ongoing plan.

The Agencies also propose to accept the electronic-signature by the plan actuary on the Schedules MB and SB, and the electronic-signature by the plan trustee for trust information on the Form 5500–SF and Schedule H. The plan actuary or plan trustee can access the EFAST2 Web site at *www.efast.dol.gov* to register for electronic credentials to sign or submit filings. If a plan actuary or a plan trustee chooses not to sign electronically, then the actuary or trustee must sign the schedule or Form, and an electronic reproduction must be attached to the Form 5500 or Form 5500–SF. This electronic reproduction must be labeled "Trustee Signature" for trust information on the Schedule H or Form 5500–SF, and "Actuary Signature" for the plan actuary on the Schedule MB or SB, and must be included as a Portable Document Format (PDF) attachment or any alternative electronic attachment allowable under EFAST2, if it is not electronically signed.

G. Electronic Filing of Certain IRS-Only Forms

The Agencies propose to enable filers to file IRS Forms 5500–EZ and 5558 through EFAST by creating an electronic version of each of these forms. The Agencies believe that the anticipated increase in electronic filing resulting from the creation of an electronic version of these forms would have various beneficial effects. For example, the electronic filing of these forms would benefit the filers and the Agencies by reducing errors that are more likely to occur during the manual preparation and processing of paper returns and reports. Electronic filing also results in faster settling of accounts and better customer service. *See Private Pensions: Targeted Revisions Could Improve Usefulness of Form 5500 Information.*

1. Form 5500–EZ

The Form 5500–EZ, *Annual Return of One-Participant (Owners and Their Spouse) Retirement Plan,* is generally used by one-participant plans and certain foreign plans to satisfy their filing requirements with the IRS under Code section 6058. The Form 5500–EZ is currently filed on paper with the IRS. Although the Form 5500–EZ cannot currently be filed electronically, one-participant plans and foreign plans (beginning with the 2014 plan year) may elect to electronically file the Form 5500–SF using the EFAST2 system instead of filing the paper Form 5500–EZ with the IRS. One-participant plans and foreign plans that file the Form 5500–SF rather than file the Form 5500–EZ are required to complete only certain lines on the Form 5500–SF. These lines are the same as, or are similar to, lines on the Form 5500–EZ. Accordingly, one-participant plans and foreign plans filing the Form 5500–SF are required to answer only those questions they would have been required to answer if they had filed the Form 5500–EZ. The IRS's electronic filing mandate regulation described above applies to filers of the Form 5500–EZ as well as to filers of Form 5500 and Form 5500–SF. One-participant plans and foreign plans that file at least 250 returns during the applicable calendar year generally are therefore now required to file the Form 5500–SF electronically using the EFAST2 system beginning with the 2015 plan year. *See* T.D. 9695, 79 FR 58256 (Sept. 29, 2014).

The IRS proposes to provide an electronic version of the Form 5500–EZ to be filed on the EFAST2 system. This electronic version would be in addition to the paper version. Accordingly, except to the extent they are subject to the electronic filing mandate, one-participant plans and foreign plans subject to the filing requirements of the Code would be able to elect to file either the paper version of the Form 5500–EZ with the IRS or file the electronic version through EFAST2. These filers would no longer be allowed to file the Form 5500–SF. One-participant plans and foreign plans that are required by 26 CFR 301.6058–2 to file electronically would be required to file the electronic version of the Form 5500–EZ.

Currently, less than 15 percent of one-participant plans file the electronic Form 5500–SF instead of the paper Form 5500–EZ. The IRS believes that creating an electronic version of the Form 5500–EZ to replace the Form 5500–SF for one-participant and foreign plans would encourage these filers to file electronically because they would no longer need to deal with the longer Form 5500–SF and its instructions. The IRS further believes that filers would be more likely to file an electronic Form 5500–EZ instead of a Form 5500–SF because, unlike when filing the Form 5500–SF, they would not need to make a separate determination as to which questions to answer. As with any Form 5500–SF currently filed by a one-participant plan for purposes of the Code, the information filed on the electronic version of the Form 5500–EZ on the EFAST2 system will not be published by the DOL on the Internet.

2. Form 5558

Filers may currently obtain a one-time extension of time to file a Form 5500 Annual Return/Report and a Form 8955–SSA, by filing IRS paper Form 5558, *Application for Extension of Time To File Certain Employee Plan Returns,* on or before the normal due date of the return/report. The IRS proposes to create an electronic version of the Form 5558 to be processed through EFAST2, which would enable filers to use the same system to request an extension that they use to file Form 5500 Annual Return/Report. The electronic filing of this form would benefit the filers and the Agencies by reducing errors that are more likely to occur during the manual preparation and processing of paper returns and reports. Electronic filing also results in faster settling of accounts and better customer service. Under this proposal, the paper Form 5558 would continue to be filed with the IRS by those filers who wish to file the Form 5558 on paper.

The Form 5558 is also currently used for extensions of time to file Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans.* It is anticipated that the extension of time to file Form 5330 could not be filed electronically using EFAST. The Form 5330 is used to report various violations of the Code related to retirement plans and requires a payment of excise taxes to the IRS. The instructions to the Form 5558 state that any tax due to be paid under the Form 5330 must be paid with the Form 5558 and that interest is charged on taxes not paid by the due date even if an extension of time to file is granted. Accordingly, the IRS proposes to create a new paper form for extensions of time to file the Form 5330. It is anticipated that this new extension form would have provisions similar to those in the Form 5558 to the extent they apply to the Form 5330.

H. Regulations Relating to the Proposed Form

As noted above, certain amendments to the annual reporting regulations are necessary to accommodate some of the proposed revisions to the forms. The DOL is publishing separately today in the **Federal Register** proposed amendments to the DOL's annual reporting regulations. That document includes a discussion of the findings required under sections 104 and 110 of ERISA that are necessary for the DOL to adopt the Form 5500 Annual Return/Report, including the Form 5500–SF, if revised as proposed herein, as an alternative method of compliance, limited exemption, and/or simplified report under the reporting and disclosure requirements of Part 1 of Subtitle B of Title I of ERISA.

I. Paperwork Reduction Act Statement

As part of continuing efforts to reduce paperwork and respondent burden, the general public and Federal agencies are invited to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data will be provided in the desired format, reporting burden (time and financial resources) will be minimized, collection instruments will be clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, the DOL is soliciting comments concerning the proposed revision of the Form 5500 Annual Return/Report, which is an information collection request subject to the PRA. A copy of the ICR may be obtained by contacting the person listed in the PRA Addressee section below.

The DOL has submitted a copy of the proposed forms revisions to the Office of Management and Budget (OMB) in accordance with 44 U.S.C. 3507(d) for its review of the DOL's information collection. The IRS and the PBGC intend to submit separate requests for OMB review and approval based upon the final forms revisions. The DOL and OMB are particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility;
- Evaluate the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Written comments must be submitted to the office shown in the PRA Addressee within 75 days of publication of the Notice of Proposed Forms Revision to ensure their consideration.

PRA Addressee: Address requests for copies of the ICR to G. Christopher Cosby, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–4745; Email: *ebsa.opr@dol.gov.* These are not toll-free numbers. ICRs submitted to OMB also are available at *http://www.RegInfo.gov.*

Type of Review: Revision of a currently approved collection.

Agencies: Employee Benefits Security Administration (OMB Control No. 1210–0110); Internal Revenue Service (OMB Control No. 1545–1610); Pension Benefit Guaranty Corporation (OMB Control No. 1212–0057).

Title: Form 5500 Series.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Form Number: DOL/IRS/PBGC Form 5500 and Schedules.

Total Respondents: The total number of annual Form 5500 filers will be approximately 2.97 million.

Total Responses: See "Total Respondents" Above.

Frequency of Response: Annually.

Estimated Total Burden Hours: 1.52 million.

Estimated Time per Response, Estimated Burden Hours, Total Annual Burden: See below for each Agency.

Total Annualized Costs: $667.7 million.

The Agencies' burden estimation methodology excludes certain activities from the calculation of "burden." If the activity is performed for any reason other than compliance with the applicable federal tax administration system or the Title I annual reporting requirements, it was not counted as part of the paperwork burden. For example, most businesses or financial entities maintain, in the ordinary course of business, detailed accounts of assets and liabilities, and income and expenses for the purposes of operating the business or entity. These recordkeeping activities were not included in the calculation of burden because prudent business or financial entities normally have that information available for reasons other than federal tax or Title I annual reporting. Only time for gathering and processing information associated with the tax return/annual reporting systems, and learning about the law, was included. In addition, an activity is counted as a burden only once if performed for both tax and Title I purposes. The Agencies also have designed the instruction package for the Form 5500 Annual Return/Report so that filers generally will be able to complete the Form 5500 Annual Return/Report by reading the instructions without needing to refer to the statutes or regulations. The Agencies, therefore, have included in their PRA calculations a burden for reading the instructions and find there is no recordkeeping burden attributable to the Form 5500 Annual Return/Report.

The DOL solicits comments regarding whether or not any recordkeeping beyond that which is usual and customary is necessary to complete the Form 5500 Annual Return/Report. Comments are also solicited on whether the Form 5500 Annual Return/Report instructions are generally sufficient to enable filers to complete the Form 5500 Annual Return/Report without needing to refer to the statutes or regulations.

J. Paperwork and Respondent Burden

Estimated time needed to complete the forms listed below reflects the combined requirements of the IRS, the DOL, and the PBGC. The times will vary depending on individual circumstances. The estimated average times are:

	Pension plans		
	Large	Small, ineligible for 5500–SF	Small, eligible for 5500–SF
Form 5500	1 hr, 52 min	1 hr, 20 min.	
Schedule A	2 hr, 55 min	2 hr, 55 min.	
Schedule MB	8 hr, 27 min	7 hr, 28 min	7 hr, 28 min.
Schedule SB	6 hr, 38 min	6 hr, 49 min	6 hr, 49 min.
Schedule C	3 hr, 28 min	3 hr, 20 min.	
Schedule E	3 hr, 18 min	3 hr, 18 min.	
Schedule G	13 hr, 51 min.		
Schedule H	11 hr, 50 min	8 hr, 12 min.	
Schedule R	1 hr, 54 min	1 hr, 6 min.	
Form 5500–SF			2 hr, 54 min.

	Welfare plans that include health benefits		
	Large	Small, unfunded, combination unfunded/fully insured, or funded with a trust	Small, fully-insured
Form 5500	1 hr, 46 min	1 hr, 15 min.	
Schedule A	3 hr, 42 min	2 hr, 45 min.	
Schedule C	4 hr, 25 min	4 hr, 25 min.	
Schedule G	11 hr, 4 min.		
Schedule H	12 hr, 46 min	8 hr, 41 min.	
Schedule J	3 hr, 30 min	3 hr, 30 min.	
Subset of Form 5500 and Schedule J.			20 min.

	Welfare plans that do not include health benefits		
	Large	Small, ineligible for 5500–SF	Small, eligible for 5500–SF
Form 5500	1 hr, 46 min	1 hr, 15 min.	
Schedule A	3 hr, 42 min	2 hr, 45 min.	
Schedule C	4 hr, 25 min	4 hr, 25 min.	
Schedule G	11 hr, 4 min.		
Schedule H	12 hr, 46 min	8 hr, 41 min.	
Form 5500–SF			2 hr, 54 min.

	Direct filing entities				
	Master trusts	**CCTs**	**PSAs**	**103–12 IEs**	**GIAs**
Form 5500	1 hr, 51 min	1 hr, 31 min	1 hr, 25 min	1 hr, 42 min	1 hr, 29 min.
Schedule A	2 hr, 56 min	2 hr, 50 min	2 hr, 49 min	2 hr, 53 min	3 hr, 6 min.
Schedule C	3 hr, 43 min	1 hr, 18 min	41 min	2 hr, 41 min	1 hr, 52 min.
Schedule D	45 min	24 min	17 min	33 min	29 min.
Schedule G	12 hr, 46 min			9 hr, 20 min.	
Schedule H	12 hr, 19 min	11 hr, 47 min	11 hr, 43 min	12 hr, 16 min	12 hr, 1 min.

The aggregate hour burden for the Form 5500 Annual Return/Report (including schedules and short form) is estimated to be 1.52 million hours annually. The hour burden reflects filing activities carried out directly by filers. The cost burden is estimated to be $667.7 million annually. The cost burden reflects filing services purchased by filers. Presented below is a chart showing the total hour and cost burden of the revised Form 5500 Annual Return/Report separately allocated across the DOL and the IRS. There is no separate PBGC entry on the chart because, as explained below, its share of the paperwork burden is very small relative to that of the IRS and the DOL.

Agency		Pension plans		Welfare plans		Total			Total
		Large	Small	Large	Small	Large	Small	DFEs	
DOL	Hours 000s	323	251	133	294	457	545	32	1,034
	$MM	$80.4	$103.6	$118.2	$181.4	$198.6	$285.0	$6.4	$490.0
IRS	Hours 000s	196	222	12	35	208	257	18	484
	$MM	$42.9	$111.3	$2.1	$16.9	$45.0	$128.2	$2.9	$176.1

The paperwork burden allocated to the PBGC includes a portion of the general instructions, basic plan identification information, a portion of Schedule MB, a portion of Schedule SB, a portion of Schedule H, and a portion of Schedule R. The PBGC's Estimated Share of Total Form 5500 Annual Return/Report Burden is: 1,300 Hours and $1.6 million per year.

APPENDIX A

1. Form 5500—Annual Return/Report of Employee Benefit Plan
2. Form 5500–SF—Annual Return Report of Small Employee Benefit Plan
3. Schedule A—Insurance Information
4. Schedule C—Service Provider Information
5. Schedule D—DFE/Participating Plan Information
6. Schedule E—ESOP Information
7. Schedule G—Financial Transaction Schedules
8. Schedule H—Financial Information
9. Schedule H, Line 4a Schedule of Delinquent Participant Contributions
10. Schedule H, Line 4i(1) Schedule of Assets Held for Investment at End of Year
11. Schedule H, Line 4i(2) Schedule of Assets Disposed of During the Plan Year
12. Schedule H, Line 4j Schedule of Reportable Transactions
13. Schedule J—Group Health Plan Information
14. Schedule MB—Multiemployer Defined Benefit Pension Plan Actuarial Information and Certain Money Purchase Plan Information
15. Schedule R—Retirement Plan Information
16. Schedule SB—Single Employer Defined Benefit Pension Plan Actuarial Information

Form 5500 (Annual Return/Report of Employee Benefit Plan)

Part I Annual Report Identification Information [Same As Current Part I Except As Indicated]

For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A [Current A, Except as indicated in boxes (3) and (5)] This return/report is for (check the correct box; for DFE's check the DFE type):

(1) ☐ a single-employer plan

(2) ☐ a multiple-employer plan (not multiemployer) (Filers checking this box must attach a list of participating employer information in accordance with the form instructions)

(3) ☐ **[New]** a plan for a controlled group of corporations, a group of trades or businesses under common control, or an affiliated service group (see instructions) (Filers checking this box must attach a list of controlled group member information in accordance with the form instructions)

(4) ☐ a multiemployer plan

(5) ☐ **[Puts DFE checkboxes on face of Form 5500 instead of entering "Codes" From Instructions]** a direct filing entity (DFE). Check DFE type (see instructions):

☐ Master Trust
☐ CCT
☐ PSA
☐ 103–12 IE
☐ GIA

B [Current, Except Adds Box (5)] This return/report is (check as applicable) (see instructions):

(1) ☐ the first return/report

(2) ☐ an amended return/report

(3) ☐ the final return/report

(4) ☐ a short plan year return/report (less than 12 months)

(5) ☐ [Current PCC 1H and **part of current Schedule H, Line 4k for PBGC-trusteed plans revised to include date of trusteeship]** a plan trusteed by PBGC.

Filers checking this box, enter date of trusteeship. (Filers checking box B(5) for plans that have 500 or fewer participants at the beginning of the plan year need to complete only certain line items on the Form 5500). (See instructions)

C [Current] If the plan is a collectively-bargained plan, check here ☐

D [Current] Check applicable box if filing under an extension or through the DFVC Program:

(1) ☐ Form 5558

(2) ☐ automatic extension

(3) ☐ special extension (enter description)

(4) ☐ the DFVC program

Part II Basic Plan Information Enter all requested information. (You must use the same plan/DFE name, PN, and EIN as in the previous year's annual return/report, except as provided in Line 5.)

1a [Current] Name of Plan

1b [Current] Three-digit plan number (PN)

1c [Current] Effective date of plan

2a [Current] Plan sponsor's name (employer, if for a single-employer plan) and address; include room or suite number, city or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)

2b(1) [Current] Plan sponsor's Employer Identification Number (EIN)

(2) [New] Plan sponsor's legal entity identifier (LEI) if available (see instructions)

2c [Current] Sponsor's telephone number

2d [Current] Business code (see instructions)

3a [Current] Plan administrator's name and address

[Current] ☐ Check if same as Plan Sponsor Name ☐ Check if same as Plan Sponsor Address

3b [Current] Administrator's EIN

3c [Current] Administrator's telephone number

4a [New] Named Fiduciary's name and address (see instructions).

☐ Check if same as Plan Sponsor Name
☐ Check if same as Plan Sponsor Address

4b [New] Named Fiduciary's EIN

4c [New] Named Fiduciary's telephone number

5 [Current Line 4, except as indicated] If the name, EIN or LEI of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN, LEI, and the plan number from the last return/report:

5a Sponsor's Name

5b(1) EIN

(2) [new] LEI if available

5c Plan Number

6 [Current Line 5] Total number of participants at the beginning of the plan year

7 [Current Line 6, Except 7g(1), (3), and (4) now added] Number of participants (welfare plans complete only Lines **7a(1), 7(a)(2), 7b, 7c, 7d, and 7g(3)).**

7a(1) Total number of active participants at the beginning of the plan year

(2) Total number of active participants as of the end of the plan year

7b Retired or separated participants receiving benefits as of the end of the plan year

7c Other retired or separated participants entitled to future benefits as of the end of the plan year

7d Subtotal. Add Lines **7a(2), 7b, and 7c.**

7e Deceased participants whose beneficiaries are receiving or are entitled to receive benefits as of the end of the plan year

7f Total. Add Lines **7d** and **7e**

7g If you are filing for defined contribution pension plan, you must complete Line 7g(1)–(4). Welfare plans complete only Line 7g(3). Defined benefit pension plans skip to Line 7h.

(1) [New] Number of participants with account balances as of the beginning of the plan year

(2) [Current Line 6g] Number of participants with account balances as of the end of the plan year

(3) [New] Number of participants that made contributions during the plan year

(4) [New] Number of participants that terminated employment during the plan year that had their entire account balance distributed as of the end of the plan year

7h Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested:

8 [Current Line 7] Enter the total number of employers obligated to contribute to the plan (only multiemployer plans complete this item)

9a [Current Line 8 Plan Characteristics Codes Entered In A List From Instructions Now Separate Questions on Face of Form] Check the appropriate box to indicate the type of plan. If the plan provides pension benefits, answer the applicable 9a questions below. See the instructions for additional details. (Plans that provide only welfare benefits check the box for "Welfare plan" and then skip to question 9b.)

☐ **[New]** Defined benefit pension plan
☐ **[New]** Defined contribution pension plan
☐ **[New]** Welfare plan

9a(1) Check the appropriate box(es) to indicate how the benefits are calculated (Defined benefit pension plans only)

☐ **[Current PCC 1A]** Benefits are primarily pay related
☐ **[Current PCC 1B]** Benefits are primarily flat dollar (includes dollars per year of service)
☐ **[Current PCC 1C]** Cash balance plan
☐ **[Current PCC 1C]** Pension equity plan (PEP)
☐ **[Current PCC 1C]** Other hybrid plan
☐ **[Current PCC 1D]** Floor-offset plan

9a(2) Does your plan have any of the Internal Revenue Code arrangements listed below? (Defined benefit pension plans only).

Yes ☐ No ☐

If "Yes", check all that apply.

[Current PCC 1E] ☐ Code Section 401(h) arrangement

[Current PCC 1F] ☐ Code Section 414(k) arrangement

9a(3) [Current PCC 1H] Is this a defined benefit pension plan that was terminated and closed out for PBGC purposes? (See instructions.)

Yes ☐ No ☐

9a(4) [Current Schedule H, Line 5c, revised to add a new sentence at the end on PBGC premium filings. For 2016, PBGC proposed that the new sentence be added to Line 5c of the Schedule H] If the plan is a defined benefit pension plan, is it covered under the PBGC insurance program (see ERISA section 4021)?

☐ Yes ☐ No ☐ Not determined

If "Yes" is checked, enter the My PAA confirmation number from the PBGC premium filing for this plan year. (See instructions.)

9a(5) [Current PCC 1I] Is this a frozen pension benefit plan? (Both defined benefit and defined contribution pension plans must answer this question.)

☐ Yes ☐ No

9a(6) [Current PCC 1D and 2D; new requirement to enter name of other plan or arrangement] Are plan benefits subject to offset for retirement benefits provided in another plan or arrangement of the employer?

☐ Yes ☐ No

If "Yes" enter name, EIN, and LEI of the sponsor and PN of the other plan or arrangement

9a(7) If this is a defined contribution pension plan, indicate the type(s) of plan (check all that apply):

☐ **[Current PCC 2E]** Profit-sharing plan
☐ **[Current PCC 2I]** Stock bonus plan
☐ **[Current PCC 2C]** Money purchase plan
☐ **[Current PCC 2B]** Target benefit plan
☐ **[Current PCC 2D]** Offset plan

9a(8) If this is a defined contribution pension plan, check the appropriate box(es) to indicate the type(s) of arrangements under which the plan operates for purposes of the Code (check all that apply):

☐ **[Current PCC 2J]** Code section 401(k) arrangement
☐ **[Current PCC 2K]** Code section 401(m) arrangement
☐ **[New]** SIMPLE 401(k) plan under Code sections 401(k)(11) and 401(m)(10)
☐ **[New]** Safe harbor 401(k) plan under Code sections 401(k)(12) and 401(m)(11)
☐ **[New]** Safe harbor 401(k) plan using automatic contribution arrangements under Code sections 401(k)(13) and 401(m)(12)
☐ **[Current PCC 2N]** Code section 408 accounts or annuities
☐ **[Current PCC 2L]** Code section 403(b)(1) arrangement
☐ **[Current PCC 2M]** Code section 403(b)(7) arrangement

9a(9) If this is a defined contribution pension plan, check all the appropriate box(es) to indicate all type(s) of features your plan has.

☐ **[Current PCC 2S]** Automatic Enrollment
☐ **[New]** Designated ROTH
☐ **[Current PCC 2A]** Age/service weighted or new comparability or similar plan
☐ **[New]** Financial education for participants
☐ **[New]** Financial advice for participants
☐ **[New]** Other (specify)

9a(10) Is this a participant-directed defined contribution pension plan? ☐ Yes ☐ No

If "Yes," check all that apply:

☐ **[Current PCC 2F]** ERISA section 404(c) plan
☐ **[Current PCC 2G]** Total participant-directed account plan
☐ **[Current PCC 2H]** Partial participant-directed account plan
☐ **[Current PCC 2R]** Participant-directed brokerage accounts.

If you check this box, enter the number of participants using the participant-directed brokerage account(s)

9a(11) [Current PCC 2T; new breakouts to indicate types of default accounts] Does the plan have default investment alternatives that are intended to be qualified default investment alternatives (QDIA) (see instructions) for participants who fail to direct assets in their account?

☐ Yes ☐ No

If "Yes," check all applicable boxes to indicate type(s) of QDIA.

☐ Target date/life cycle fund
☐ Fixed income
☐ Money market or equivalent (under 29 CFR 2550.404c–5(e))
☐ Balanced fund
☐ Professionally managed account
☐ Other (specify)

9a(12) [New] Is this an Eligible Combined Plan under Code section 414(x)?

☐ Yes ☐ No

9a(13) [New] Check this box if a rollover from a plan (including an individual retirement plan) was used to start up the business (ROBS) sponsoring this plan: ☐

9a(14) If this is a profit sharing or money purchase plan combined with an ESOP, or a plan requiring that all or part of employer contributions be invested and held, at least for a limited period, in employer securities check all that apply. (You must attach a Schedule E if the plan is an ESOP or has ESOP features).

☐ **[Current PCC 2P]** Leveraged ESOP
☐ **[Current PCC 2O]** ESOP other than a leveraged ESOP
☐ **[Current PCC 2Q]** ESOP of an S corporation
☐ **[Current PCC 3I]** Other plan requiring that all or part of employer contributions be invested and held, at least for a limited period, in employer securities

9a(15) Other Pension Benefit Features (Check all that apply):

☐ **[Current PCC 3D; 2016 Schedule R Line 17a]** IRS Pre-approved plan.

If you check this box enter:

(1) most recent adoption date

(2) the IRS opinion or advisory letter's serial number.

☐ **[Current PCC 3B]** Plan covering self-employed individuals
☐ **[Current PCC 3C]** Plan not intended to be qualified under Internal Revenue Code
☐ **[Current PCC 3D-breakout]** Master and prototype (M&P) plan
☐ **[Current PCC 3D-breakout]** Volume submitter plan
☐ **[New]** Plan sponsor(s) received services of leased employees
☐ **[Current PCC 3J]** U.S.-based plan that covers residents of Puerto Rico and is qualified under both Code section 401 and section 1165 of Puerto Rico Code
☐ **[New]** Electing church plan under Code Section 410(d).

9b [Current Line 8b; now multiple questions instead of plan characteristic codes entered in a list from instructions; PCC 4T, and 4U eliminated] If the plan provides welfare benefits, complete Lines 9b(1)–9b(4). Plans that do not provide any welfare benefits skip to question 10.

9b(1) [Modification and expansion of current PCC 4A, 4D, 4E] Does the plan provide health, dental, or vision coverage?

☐ Yes ☐ No

If "Yes," check all that apply:

☐ **[New Breakout of current PCC 4A]** medical/surgical benefits
☐ **[New Breakout of current PCC 4A]** pharmacy or prescription drug benefits
☐ **[New Breakout of current PCC 4A]** mental health/substance use disorder benefits
☐ **[New Breakout of current PCC 4A]** wellness program
☐ **[New Breakout of current PCC 4A]** preventive care services
☐ **[New Breakout of current PCC 4A]** emergency services
☐ **[New Breakout of current PCC 4A]** pregnancy benefits
☐ **[Current PCC 4E]** vision
☐ **[Current PCC 4D]** dental

9b(2) Does the plan provide disability benefits?

☐ Yes ☐ No

If "Yes," check all that apply.

☐ **[Current PCC 4F]** Temporary disability (accident and sickness)
☐ **[Current PCC 4H]** Long-term disability

9b(3) Does the plan provide welfare benefits other than health, dental, vision, or disability?

☐ Yes ☐ No

If "Yes," check all that apply.

☐ **[Current PCC 4B]** Life insurance
☐ **[Current PCC 4L]** Death benefits (include travel accident but not life insurance)
☐ **[New]** Long term care insurance
☐ **[Current PCC 4J]** Apprenticeship and training
☐ **[Current PCC 4C]** Supplemental unemployment
☐ **[Current PCC 4K]** Scholarship (funded)
☐ **[Current PCC 4G]** Prepaid legal
☐ **[Current PCC 4I]** Severance pay
☐ **[Current PCC 4P]** Taft-Hartley Financial Assistance for Employee Housing Expenses
☐ **[Current PCC 4Q]** Other (Enter description.)

9b(4) If the plan is a welfare plan that does not provide health benefits, check the appropriate box to indicate whether the plan will stop or stopped filing in an earlier year in reliance on 29 CFR 2520.104–20. (If the plan provided group health benefits, it is not eligible for the limited exemption in 29 CFR 2520.104–20 and must file a Form 5500 Annual Return/Report in accordance with the instructions annually, regardless of plan size.)

☐ **[Current PCC 4R]** Unfunded, fully insured, or combination unfunded/fully insured welfare plan that does not provide health benefits that will not file an annual report for next plan year pursuant to 29 CFR 2520.104–20. (Plans that check this box should not check "final return/report" in Part I, Box B.)
☐ **[Current PCC 4S]** Unfunded, fully insured, or combination unfunded/fully insured welfare plan that does not provide health benefits that stopped filing annual reports in an earlier plan year pursuant to 29 CFR 2520.104–20. (Plans that check this box should not check "first return/report" in Part I, Box B.)

10a [Current Line 9a] Plan funding arrangement (Check all that apply.)

(1) ☐ Insurance
(2) ☐ Code section 412(e)(3) insurance contracts
(3) ☐ Trust
(4) ☐ General assets of the sponsor

10b [Current Line 9b] Plan benefit arrangement (Check all that apply.)

(1) ☐ Insurance
(2) ☐ Code section 412(e)(3) insurance contracts
(3) ☐ Trust
(4) ☐ General assets of the sponsor

11 [Current Line 10, Except check box added for Schedule E and Schedule J and Eliminated For Schedule I] Check all applicable boxes in 11a and 11b to indicate which schedules are attached, and, where indicated, enter the number attached. (See instructions).

11a Pension Schedules

(1) ☐ Schedule R (Retirement Plan Information)
(2) ☐ Schedule E (Employee Stock Ownership Plan Information)
(3) ☐ Schedule MB (Multiemployer Defined Benefit Plan and Certain Money

Purchase Plan Actuarial Information)—signed by the plan actuary

(4) ☐ Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information)—signed by the plan actuary

11b General Schedules

(1) ☐ Schedule H (Financial Information)

(2) ☐ Schedule A (Insurance Information) Enter number of Schedules A attached (See instructions.)

(3) ☐ Schedule C (Service Provider Information) Enter number of Schedules C attached (See instructions.)

(4) ☐ Schedule D (DFE/Participating Plan Information)

(5) ☐ Schedule G (Financial Transaction Schedules)

(6) ☐ Schedule J (Group Health Plan Information)

[Current Part III Form M–1 information moved to Schedule J]

[JURAT and SIGNATURE BLOCK to appear on first page, as with current form]

CAUTION: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE Signature of plan administrator

Enter Date:

Enter name of individual signing as plan administrator

SIGN HERE Signature of employer/plan sponsor

☐ **[New]** Check here if two signatures for Taft-Hartley plan

(1) Management trustee signature (2) Labor trustee signature

Enter Date:

Enter name(s) of individual(s) signing as employer or plan sponsor

SIGN HERE Signature of DFE

Enter Date:

Enter name of individual signing as DFE

Preparer's name (including firm name, if applicable) and address; include room or suite number.

Preparer's telephone number

Line A(2) Schedule

Complete as many entries as needed to report the required information for all participating employers.

Multiple-Employer Plan Participating Employer Information
(Heading for this chart must include Name of Plan, and EIN/PN as shown on the Form 5500)

(a) Name of participating employer	(b) EIN	(c) Percent of Total Contributions.
(a) Name of participating employer	(b) EIN	(c) Percent of Total Contributions.

Line A(3) Schedule

Complete as many entries as needed to report the required information for all participating employers.

Controlled Group Plan Member Information
(Heading for this chart must include Name of Plan, and EIN/PN as shown on the Form 5500). Complete elements (a), (b), and (c) to provide the name, EIN, and percent of total contributions of each controlled group member.)

(a) Name of controlled group member	(b) EIN	(c) Percent of Total Contributions.
(a) Name of controlled group member	(b) EIN	(c) Percent of Total Contributions.

Form 5500–SF (Short Form Annual Return/Report of Small Employee Benefit Plan)

Part I Annual Report Identification Information [Same As Current Part I, Except New Box A(3)]

For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A [Current except as shown] This return/report is for:

(1) ☐ a single-employer plan

(2) ☐ a multiple-employer plan (not multiemployer) (Filers checking this box must attach a list of participating employer information in accordance with the form instructions)

(3) ☐ **[New]** a plan of a controlled group of corporations, group of trades or businesses under common control, or an affiliated service group (see instructions) (Filers checking this box must attach a list of controlled group member information in accordance with the form instructions)

(4) ☐ a one-participant plan

(5) ☐ foreign plan

B [Current] This return/report is (check as applicable) (see instructions):

(1) ☐ the first return/report

(2) ☐ the final return/report

(3) ☐ an amended return/report

(4) ☐ a short plan year return/report (less than 12 months)

(5) ☐ **[Part of current Line 13b for PBGC-trusteed plans revised to include date of trusteeship]** A plan trusteed by PBGC. Filers checking this box, enter the date of trusteeship ____/____/____.

(If you checked box B(5), you only need to complete only certain line items. (See Instructions.)

C [Current] Check the applicable box if filing under an extension or through the DFVC Program:

(1) ☐ Form 5558

(2) ☐ automatic extension

(3) ☐ special extension (enter description)

(4) ☐ DFVC program

Part II Basic Plan Information—Enter all requested information [Same As Current Part II (Lines 1–6), except as shown] (You must use the same plan name, PN, and EIN as in the previous year's annual return/report, except as provided in Line 5.)

1a Name of Plan

1b Three-digit plan number (PN)

1c Effective date of plan

2a [Current except as shown] Plan sponsor's name (employer, if for a single-employer plan) and address; include room or suite number, city or town, state or province, country, and ZIP or foreign postal code (if foreign, see instructions)

2b(1) Plan sponsor's Employer Identification Number (EIN)

(2) [New] Plan sponsor's legal entity identifier (LEI) if available (see instructions)

2c Sponsor's telephone number

2d Business code (see instructions)

3 [Current except as shown] Plan administrator's name and address

☐ Check if same as Plan Sponsor Name

☐ Check if same as Plan Sponsor Address

3a Plan Administrator's Name and address

3b Administrator's EIN

3c Administrator's telephone number

4a [New] Named Fiduciary's name and address (see instructions).

☐ Check if same as Plan Sponsor Name

☐ Check if same as Plan Sponsor Address

4b [New] Named Fiduciary's EIN

4c [New] Named Fiduciary's telephone number

5 [Current Line 4 except to add LEI] If the name, EIN, or LEI of the plan sponsor has changed since the last return/report filed for this plan, enter the name, EIN, LEI, and the plan number from the last return/report:

5a Sponsor's Name

5b(1) EIN

(2) [New] LEI (if available)

5c Plan Number

6 [Current Line 5] Total number of participants at the beginning of the plan year

7 [Current Line 6] Number of participants (welfare plans complete only Lines 7a(1), 7a(2), 7b, 7c, and 7d).

7a(1) [Current Line 5d(1)] Total number of active participants at the beginning of the plan year

(2) [Current Line 5d(2)] Total number of active participants as of the end of the plan year

7b [New] Retired or separated participants receiving benefits as of the end of the plan year

7c [New] Other retired or separated participants entitled to future benefits as of the end of the plan year

7d [New] Subtotal. Add Lines **7a(2), 7b,** and **7c**

7e [New] Deceased participants whose beneficiaries are receiving or are entitled to receive benefits as of the end of the plan year

7f [New] Total. Add Lines **7d** and **7e**

7g If you are filing for defined contribution pension plan, you must complete Line 7g(1)–(4). Welfare plans complete only Line 7g(3). Defined benefit pension plans skip to Line 7h.

(1) [New] Number of participants with account balances as of the beginning of the plan year

(2) [Current Line 5c] Number of participants with account balances as of the end of the plan year

(3) [New] Number of participants that made contributions during the plan year

(4) [New] Number of participants that terminated employment during the plan year that had their entire account balance distributed as of the end of the plan year

7h [Current Line 5e] Number of participants that terminated employment during the plan year with accrued benefits that were less than 100% vested

Part III—Form 5500–SF Eligibility Information [New "Part" title for existing eligibility questions]

8a [Current Line 6a] Were all of the plan's assets during the plan year invested in eligible assets? (See instructions.)

☐ Yes ☐ No

8b [Current Line 6b] Are you claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46? (See instructions on waiver eligibility and conditions.)

☐ Yes ☐ No

8c [New] Did the plan provide group health benefits?

☐ Yes ☐ No

If you answered "No" to Line 8a or 8b, or "Yes" to Line 8c, the plan cannot use Form 5500–SF and must instead file the Form 5500 and any required Schedules and attachments.

Part IV—Financial Information [Current Part III, with new breakouts]

9 [Current Line 7] Plan Assets and Liabilities [Columns for (a) Beginning of Year (BOY) and **(b)** End of Year (EOY) Values for 9a–9d]

9a [Current Line 7a] Total plan assets

9b [Current Line 7b] Total plan liabilities

9c [Current Line 7c] Net plan assets (subtract Line 9b from Line 9a)

10 [Current Line 8] Income, Expenses, and Transfers for this Plan Year

10a [Current Line 8a] Contributions

(1) Received or receivable in cash from:

(A) [Current Line 8a(1)] Employers

(B) [Current Line 8a(2)] Participants

(2) [Current Line 8a(3)] Others (including rollovers from IRAs/other plans)

10b [Current Line 8b] Other income (loss)

10c [Current Line 8c] Total income (add Lines 10a(1)(A) and (B), 10a(2), 10b and 10c)

10d [Current Line 8d] Benefits paid (including direct rollovers and insurance premiums to provide benefits)

10e [Current Line 8e] Certain deemed and/or corrective distributions (see instructions)

10f [Current Line 8f] Administrative service providers (salaries, fees, commissions)

10g [Current Line 8g] Other expenses

10h [Current Line 8h] Total expenses (add Lines 10e, 10f, 10g, and 10h)

10i [Current Line 8i] Net income (loss) (subtract Line 10h from Line 10d)

10j [Current Line 8j] Transfers to (from) the plan (see instructions)

11 [New] Specific Assets [Columns for **(a)** Beginning of Year (BOY) and **(b)** End of Year (EOY) Values] **[New]**

11a Cash/cash equivalents

11b [New] Securities, except employer securities, traded on a public exchange

(1) Stock

(2) Bonds

(3) Other

11c [New breakout] Government securities issued by the United States or a State

11d [New] Interests in registered investment companies (Mutual funds, Unit Investment Trusts, Closed End Funds)

11e [New] Interests in insurance company pooled separate accounts (PSAs)

11f [New] Interests in insurance investment and annuity contracts (other than PSAs)

11g [New] Interests in bank common collective trusts (CCTs)

11h [New] Interests in bank investment contracts (other than CCTs)

11i [New] Participant loans

Part V—Plan Characteristics Information [Current Part IV]

12a [Current Line 8a; Now multiple questions instead of Plan Characteristic Codes (PCC) entered in a list from Instructions] Check the appropriate box to indicate the type of plan. If the plan provides pension benefits, answer the applicable 12a questions below; see the instructions for additional details. (Plans that provide only welfare benefits check the box for "Welfare Plan" and then skip to question 12b.)

☐ Defined benefit pension plan
☐ Defined contribution pension plan
☐ Welfare plan

12a(1) Check the appropriate box(es) to indicate how the benefits are calculated (Defined benefit pension plans only.)

☐ **[Current PCC 1A]** Benefits are primarily pay related
☐ **[Current PCC 1B]** Benefits are primarily flat dollar (includes dollars per year of service)
☐ **[Current PCC 1C breakout]** Cash balance plan
☐ **[Current PCC 1C breakout]** Pension equity plan (PEP)
☐ **[Current PCC 1C breakout]** Other hybrid plan
☐ **[Current PCC 1D]** Floor-offset plan

12a(2) Does your plan have any of the Internal Revenue Code arrangements listed below? Check all that apply. Defined benefit pension plans only)

☐ **[Current PCC 1F]** Code Section 414(k) arrangement

12a(3) [Current PCC 1H] Is this a defined benefit pension plan that was terminated and closed out for PBGC purposes (see instructions)?

☐ Yes ☐ No

12a(4) [Current Line 6c, revised to add a new sentence at the end on PBGC premium filings. For 2016, PBGC proposed that the new sentence be added to Line 5c of the Schedule H] If the plan is a defined benefit pension plan, is it covered under the PBGC insurance program (see ERISA section 4021)?

☐ Yes ☐ No ☐ Not determined

If "Yes" is checked, enter the My PAA confirmation number from the PBGC premium filing for this plan year. (See instructions)

12a(5) [Current PCC 1I expanded to include DC as well as DB pension plans] Is this a frozen pension benefit plan? (Both defined benefit and defined contribution pension plans must answer this question.)

☐ Yes ☐ No

12a(6) [Current PCC 1D and 2D; new requirement to provide identifying information about sponsor of other plan or arrangement] Are plan benefits subject to offset for retirement benefits provided in another plan or arrangement of the employer?

☐ Yes ☐ No

If "Yes," enter name, EIN, and LEI of sponsor and PN of other plan or arrangement

12a(7) If this is a defined contribution pension plan, indicate the type(s) of plan (check all that apply):

☐ **[Current PCC 2E]** Profit-sharing plan
☐ **[Current PCC 2I]** Stock bonus plan
☐ **[Current PCC 2C]** Money purchase plan
☐ **[Current PCC 2B]** Target benefit plan
☐ **[Current PCC 2D]** Offset plan

12a(8) If this is a defined contribution pension plan, check the appropriate box(es) to indicate the type(s) of arrangements under which the plan operates for purposes of the Code (check all that apply):

☐ **[Current PCC 2J]** Code section 401(k) arrangement
☐ **[Current PCC 2K]** Code section 401(m) arrangement
☐ **[New]** SIMPLE 401(k) plan under Code sections 401(k)(11) and 401(m)(10)
☐ **[New]** Safe harbor 401(k) plan under Code sections 401(k)(12) and 401(m)(11)
☐ **[New]** Safe harbor 401(k) plan using automatic contribution arrangements under Code sections 401(k)(13) and 401(m)(12)
☐ **[Current PCC 2N]** Code section 408 accounts or annuities
☐ **[Current PCC 2L]** Code section 403(b)(1) arrangement
☐ **[Current PCC 2M]** Code section 403(b)(7) arrangement

12a(9) If this is a defined contribution pension plan, check the appropriate box(es) to indicate the type(s) of features your plan has:

☐ **[Current PCC 2S]** Automatic Enrollment
☐ **[New]** Designated ROTH
☐ **[Current PCC 2A]** Age/service weighted or new comparability or similar plan
☐ **[New]** Financial education for participants
☐ **[New]** Financial advice for participants
☐ **[New]** Other (specify)

12a(10) If this a participant-directed defined contribution pension plan, check all that apply:

☐ **[Current PCC 2F]** ERISA section 404(c) plan
☐ **[Current PCC 2G]** Total participant-directed account plan
☐ **[Current PCC 2H]** Partial participant-directed account plan
☐ **[Current PCC 2R]** Participant-directed brokerage accounts. If you check this box, enter the number of participants using the participant-directed brokerage account(s)

12a(11) [New] (A) Does the plan have default investment alternatives that are intended to be qualified default investment alternatives (QDIA) (see instructions) for participants who fail to direct assets in their account?

☐ Yes ☐ No

(B) If "Yes," indicate type(s) of QDIA (Check all that apply)

☐ Target date/life cycle fund
☐ Fixed income
☐ Money market or equivalent (under 2550.404c–5(e))
☐ Balanced/target allocation fund
☐ Professionally managed account
☐ Other (specify)

12a(12) [New] Is this an Eligible Combined Plan under Code section 414(x)?

☐ Yes ☐ No

12a(13) [New] Check this box if a rollover from a plan (including an individual retirement plan) was used to start up the business (ROBS) sponsoring this plan: ☐

12a(14) Other Pension Benefit Features (check all that apply):

☐ **[Current PCC 3D; 2016 Line 17a]** IRS Pre-approved plan. If you check this box enter: (1) most recent adoption date and (2) the IRS opinion or advisory letter's serial number
☐ **[Current PCC 3B]** Plan covering self-employed individuals
☐ **[Current PCC 3C]** Plan not intended to be qualified under Internal Revenue Code
☐ **[Current PCC 3D-breakout]** Master and prototype (M&P) plan
☐ **[Current PCC 3D-breakout]** Volume submitter plan
☐ **[New]** Plan sponsor(s) received services of leased employees
☐ **[Current PCC 3J]** U.S.-based plan that covers residents of Puerto Rico and is qualified under both Code section 401 and section 1165 of Puerto Rico Code
☐ **[New]** Electing church plan under Code Section 410(d)

12b If the plan provides welfare benefits, complete Lines 12b(1)–(3). Plans that do not provide any welfare benefits skip to question 13.

12b(1) Does the plan provide disability benefits?

☐ Yes ☐ No

If "Yes," check all that apply.

☐ **[Current PCC 4F]** Temporary disability (accident and sickness)
☐ **[Current PCC 4H]** Long-term disability

12b(2) Does the plan provide welfare benefits other than disability?

☐ Yes ☐ No

If "Yes," check all that apply.

☐ **[Current PCC 4B]** Life insurance
☐ **[Current PCC 4L]** Death benefits (include travel accident but not life insurance)
☐ **[New]** Long term care insurance
☐ **[Current PCC 4J]** Apprenticeship and training
☐ **[Current PCC 4C]** Supplemental unemployment
☐ **[Current PCC 4K]** Scholarship (funded)
☐ **[Current PCC 4G]** Prepaid legal
☐ **[Current PCC 4I]** Severance pay
☐ **[Current PCC 4P]** Taft-Hartley Financial Assistance for Employee Housing Expenses
☐ **[Current PCC 4Q]** Other (Enter description. Caution: If the plan provides health benefits, you must file the Form 5500.)

12b(3) If the plan is a welfare plan that does not provide health benefits, check the appropriate box to indicate whether the plan will stop or stopped filing in an earlier year in reliance on 29 CFR 2520.104–20. (If the plan provided group health benefits, it is not eligible for the exemption in 29 CFR 2520.104–20 and must file a return/report annually, regardless of plan size.)

☐ **[Current PCC 4R]** Unfunded, fully insured, or combination unfunded/fully insured welfare plan that will not file an annual report for next plan year pursuant to 29 CFR 2520.104–20. (Plans that check this box should not check "final return/report" in Part I, Box B.)
☐ **[Current PCC 4S]** Unfunded, fully insured, or combination unfunded/fully insured welfare plan that stopped filing annual reports in an earlier plan year pursuant to 29 CFR 2520.104–20. (Plans that check this box should not check "first return/report" in Part I, Box B.)

13a [New; taken from current Form 5500 Line 9a] Plan funding arrangement (check all that apply)

(1) ☐ Insurance
(2) ☐ Code section 412(e)(3) insurance contracts
(3) ☐ Trust
(4) ☐ General assets of the sponsor

13b [New to Form 5500–SF; current Form 5500 Line 9b] Plan benefit arrangement (check all that apply)

(1) ☐ Insurance
(2) ☐ Code section 412(e)(3) insurance contracts
(3) ☐ Trust
(4) ☐ General assets of the sponsor

Part VI—Plan Operations Compliance Questions [Current Part V]

During the plan year:

14a [Current Line 10a revised] Was there a failure to transmit to the plan any participant contributions or repayments as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets as described in 29 CFR 2510.3–102? Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's **Voluntary Fiduciary Correction Program**.)

☐ Yes ☐ No Amount

14b [Current Line 10b] Were there any nonexempt prohibited transactions with any party-in-interest? (Do not include transactions reported on Line 14a.)

☐ Yes ☐ No Amount

14c [Current Line 10c revised] Was this plan covered by one or more fidelity bonds naming the plan as insured that provide coverage for losses due to fraud or dishonesty by persons who handle plan funds or other property?

☐ Yes ☐ No Amount

14d [Current Line 10d] Did the plan have a loss, whether or not reimbursed by a fidelity bond covering the plan, that was caused by fraud or dishonesty?

☐ Yes ☐ No Amount

14e [Current Line 10e] Were any fees or commissions paid to any brokers, agents, or other persons by an insurance carrier, insurance service, or other organization that provides some or all of the benefits under the plan?

☐ Yes ☐ No Amount

14f [Current Line 10f] Has the plan failed to provide any benefit when due under the plan?

☐ Yes ☐ No Amount

14g [Current Line 10h] If this is an individual account plan, was there a blackout period? (See 29 CFR 2520.101–3.)

☐ Yes ☐ No

14h [Current Line10i] If 14h was answered "Yes," check the box if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101–3:

☐ Yes ☐ No

14i [New] Is this a participant-directed individual account plan (*e.g.*, a 401(k)-type or 403(b) defined contribution pension plan), subject to the requirements in 29 CFR 2550.404a–5 to disclose plan and investment related information to participants and beneficiaries?

☐ Yes ☐ No

14j [New] If you answered "Yes" to Line 14i, did the plan provide participants and beneficiaries the plan and investment disclosures required under 29 CFR 2550.404a–5?

☐ Yes ☐ No

If you answered "Yes," you must attach the investment option comparative chart or charts that were used to satisfy the disclosure requirement in 29 CFR 2550.404a–5(d)(2).

14k [New] If you answered "Yes," to Line 14i, enter the number of designated investment alternatives (DIAs) available under the plan and indicate the number of DIAs that are index funds. Also, check all that apply to indicate the types of DIAs available under the plan:

☐ Domestic Stock/Equity
☐ Bond/income
☐ Balanced/target allocation

☐ Money Market
☐ Target date/Lifecycle
☐ International/Global Stock/Equity
☐ Sector/economy segment
☐ Other funds (Describe)

14l [New] If you answered "Yes," to Line 14j, did the plan make available to participants and beneficiaries a designated investment manager (DIM)?

☐ Yes ☐ No

If "Yes," enter name of DIM.

14m [New] If you answered "Yes," to Line 14j, did the plan make available to participants and beneficiaries any brokerage window, self-directed brokerage account or similar plan arrangements that enabled participants to select investments beyond those designated by the plan?

☐ Yes ☐ No

If you answered "Yes" to Line 14m, enter the number of participants that utilized the account or arrangement and the total amount held in such account(s):

14n [New] Did the plan trust incur unrelated business taxable income (UBTI)?
☐ Yes ☐ No ☐ NA
If "Yes", enter amount.

14o [New] Did any employer or employer organization sponsoring the plan pay any of the administrative expenses of the plan that were not reported on Line 10g?
☐ Yes ☐ No

14p [New] Did any person who is disqualified under ERISA Section 411, serve or was permitted to serve the plan in any capacity?
☐ Yes ☐ No

14q [New] Did the plan sponsor or its affiliates provide any services to the plan in exchange for direct or indirect compensation?
☐ Yes ☐ No

14r [New] Have any of the plan's service providers been terminated for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b–2?
☐ Yes ☐ No

If "Yes," complete elements (1)–(7) to identify the service provider.

(1) Name:
(2) EIN:
(3) Enter applicable service code from Line 2c(1) for describe services provided to plan:
(4) Address:
(5) Telephone:
(6) Explanation of reason for termination:
(7) ☐ Check if termination was due to failure to provide required disclosures under 29 CFR 2550.408b–2.

14s [New (based on 1998 Line 8a)] Is the plan's summary plan description (SPD), including any summary descriptions of modifications, in compliance with the content requirements in 29 CFR 2520.102–3? (See instructions.)
☐ Yes ☐ No

14t [New] If this is an individual account plan, were there any checks to participants or beneficiaries that were uncashed as of the end of the plan year? ☐ Yes ☐ No. If "Yes," complete 14t(1)–(4)

(1) Enter number of uncashed checks
(2) Enter total value of uncashed checks
(3) Describe the procedures followed by the plan to verify a participant's or beneficiary's address before a check was mailed.
(4) Describe the procedures followed by the plan to monitor uncashed checks, including steps to locate "missing" participants.

Part VII—Pension Funding Compliance [Current Part VI Renumbered]

15 [Current Line 11] Is this a defined benefit pension plan subject to minimum funding requirements? (If "Yes," see instructions and complete Schedule SB (Form 5500) and line 14a below)

☐ Yes ☐ No

15a [Current Line 11a] Enter the unpaid minimum required contribution for all years from Schedule SB (Form 5500) Line 44.

16 [Current Line 12] Is this a defined contribution pension plan subject to the minimum funding requirements of section 412 of the Code or section 302 of ERISA?
Line 15a or Lines 15b, 15c, 15d, and 15e below, as applicable.

16a If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions, and enter the date of the letter ruling granting the waiver:

If you completed Line 16a, complete Lines 3, 9, and 10 of Schedule MB (Form 5500), and skip to line 20.

16b Enter the minimum required contribution for this plan year.

16c Enter the amount contributed by the employer to the plan for this plan year:

16d Subtract the amount in Line 16c from the amount in Line 16b. Enter the result (enter a minus sign to the left of a negative amount):

16e Will the minimum funding amount reported on Line 16d be met by the funding deadline?

☐ Yes ☐ No ☐ N/A

Part VIII Plan Termination Information—[Current Part VII Revised and Expanded]

17a [Current Line 13a; Revised to Ask About Any Resolution to Terminate] Has a resolution to terminate the plan been adopted in any plan year?

☐ Yes ☐ No If "Yes," complete Line 17a(1)–(3) below:

(1) [New] Effective date of plan termination
(2) [New] Year the plan assets were distributed to plan participants and beneficiaries
(3) [Current Line 13a] Enter the amount of plan assets that reverted to the employer this year:

17b [Part of current Line 13b with a new subpart to report the year.] Were all the plan assets distributed to participants or beneficiaries?

☐ Yes ☐ No

17c [Current Line 13c] Transfer to other plans. If this plan transferred assets or liabilities to another plan since the 20XX–1 filing provide the following information with respect to each plan to which the assets or liabilities were transferred. Complete as many entries as needed to identify all transfers.

(1) [Current 13c(2)] EIN
(2) [Current 13c(3)] PN
(3) [New] Date of transfer
(4) [Current 13c(1)] Name of Plan:
(5) [New] Type of transfer:
☐ Merger
☐ Consolidation
☐ Spinoff
☐ Other (Describe)

(6) [Part of current Line 13b] Were all plan assets transferred to another plan?
☐ Yes ☐ No

17d [New] Transfers from other plans. If another plan transferred assets or liabilities to this plan since the 20XX–1 filing, or in the case of a first plan filing, transferred assets or liabilities in conjunction with the creation of this new plan, provide the following information with respect to each plan from which assets or liabilities were transferred:

(1) EIN
(2) PN
(3) Date of transfer
(4) Name of Plan:
(5) Type of transfer: Type of transfer:
☐ Merger
☐ Consolidation
☐ Spinoff
☐ Other (**[New]** Describe)

17e [New] Terminated Defined Contribution Pension Plans: Transfers to Financial Institution. Did this plan, as part of the procedures for terminating the plan, transfer plan assets to interest bearing federally insured bank accounts in the name of missing participants?

☐ Yes ☐ No

If "Yes," complete elements (1)–(5). List each financial institution where plan assets were transferred. You must continue reporting this information until the final return/report is filed for the plan.

(1) Financial Institution's Name
(2) Financial Institution's EIN
(3) Date of transfer
(4) Number of accounts established
(5) Total amount transferred

Part IX—Trustee Information—[Current Part III But Not Optional; see IRS Federal Register Notice "Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan"]

18a [Current Line 14a] Name of Trust
18b [Current Line14b] Trust EIN
18c [New] Name of Trustee/Custodian
Check ☐ if custodian
18d [New] Trustee's or custodian's telephone number

[New—intended to be electronic signature] Date and Signature of Trustee/Custodian
SIGN HERE Signature of plan trustee or custodian:
Enter Date:
Enter name of individual signing as trustee or custodian

Part X IRS Compliance Questions [See IRS Federal Register Notice "Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan"]

19a [2016 Line 15a] Is this plan a 401(k) plan?

☐ Yes ☐ No

If "No," skip b.

19b [2016 Line 15b] How did the plan satisfy the nondiscrimination requirements for employee deferrals under section 401(k)(3)? Check all that apply

☐ Design-based safe harbor method
☐ "Prior year" ADP test
☐ "Current year" ADP test
☐ N/A

20a [2016 Line 16a] What testing method was used to satisfy the coverage requirements under section 410(b) for the plan year. Check all that apply:

☐ Ratio percentage test
☐ Average benefit test
☐ N/A

20b [2016 Line 16b] Did the plan satisfy the coverage and nondiscrimination requirements of sections 410(b) and 401(a)(4) for the plan year by combining this plan with any other plan under the permissive aggregation rules?

☐ Yes ☐ No

21 [New] If this is a defined benefit pension plan, does the plan comply with Code section 401(a)(26) participation requirements?

☐ Yes ☐ No

22a [2016 Line 17b] If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter ____/____/____a and the serial number.

22b [2016 Line 17d] If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of the most recent determination letter __/__/____.

23a [2016 Line 19] If this is a section 401(k) plan, were hardship distributions made during the plan year?

☐ Yes ☐ No

23b [2016 Line 19] If this is a defined benefit plan or a money purchase pension plan, did the plan make any distributions during the plan year to employees who have attained age 62 and who were not separated from service when the distributions were made? ☐ Yes ☐ No

24 [New] Were required minimum distributions made to 5% owners who have attained age 70½ (regardless of whether or not retired) as required under section 401(a)(9)(C)?

☐ Yes ☐ No ☐ N/A

25 [New] As of the last day of the plan year, has the plan ceased to permit contributions and prohibit entry by new participants?

☐ Yes ☐ No

[JURAT and SIGNATURE BLOCK to appear on first page, as with current form]

CAUTION: A penalty for the late or incomplete filing of this return/report will be assessed unless reasonable cause is established.

Under penalties of perjury and other penalties set forth in the instructions, I declare that I have examined this return/report, including accompanying schedules, statements and attachments, as well as the electronic version of this return/report, and to the best of my knowledge and belief, it is true, correct, and complete.

SIGN HERE Signature of plan administrator:
Enter Date:
Enter name of individual signing as plan administrator

SIGN HERE Signature of employer/plan sponsor:
Enter Date:
Enter name(s) of individual(s) signing as employer or plan sponsor

[New] Trustee Signature for Purposes of the Code:

SIGN HERE Signature of plan trustee or custodian:
Enter Date:
Enter name of individual signing as trustee or custodian

Preparer's name (including firm name, if applicable) and address; include room or suite number.
Preparer's telephone number

Line A(2) Schedule

Complete as many entries as needed to report the required information for all participating employers.

Multiple-Employer Plan Participating Employer Information

[Insert Name of Plan, and EIN/PN as shown on the Form 5500]

(d) Name of participating employer.	(e) EIN	(f) Percent of Total Contributions.
(d) Name of participating employer.	(e) EIN	(f) Percent of Total Contributions.

Line A(3) Schedule

Complete as many entries as needed to report the required information for all participating employers.

Controlled Group Plan Member Information

[Heading for this chart must include Insert Name of Plan, and EIN/PN as shown on the Form 5500]

[Complete elements (a), (b), and (c) to provide the name, EIN, and percent of total contributions of each controlled group member]

(d) Name of controlled group member.	(e) EIN	(f) Percent of Total Contributions.
(a) Name of controlled group member.	(b) EIN	(c) Percent of Total Contributions.

Schedule A—Insurance Information

[Current Identifying Information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of Plan

B Three-digit plan number (PN)

C Plan sponsor's name as shown on Line 2a of Form 5500

D Employer Identification Number of plan sponsor (EIN)

Part I—Information Concerning Insurance Contract Coverage. Provide information for each contract on a separate Schedule A. Individual contracts grouped as a unit in Parts II and III can be reported on a single Schedule A.

1. Coverage and General Information:

a. [Current 1a] Name of insurance carrier:

b. [Current 1b] EIN of insurance carrier:

c. [More Specific Than Current 1c By Requiring "Company" Code Instead of NAIC Code Generally] NAIC Company Code

d. [Current 1d] Contract or policy identification number:

e. [New] Health plan identification number (HPID) (if subject to the Health Insurance Portability and Accountability Act (HIPAA))

[Current Line 1e moved as breakout by benefit type in new Line 9]

f. [Current 1(f) and (g)] Policy or contract year (1) beginning ______(2) ending ______

2. [New] Was the policy or contract issued by an insurance company that is wholly owned by the plan or the plan sponsor?

☐ Yes ☐ No

[Current 2 Moved to New Part IV]

Part II—Investment and Annuity Contract Information. [Current Part II] Where individual contracts are provided, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

3. [Current Line 4] Current value of plan's interest under this contract in the general account at contract year end.

4. [Current Line 5, with PSAs. "Other" and Variable Annuity Contracts broken out; new to provide information on variable annuity contract features] Current value of plan's interest under this contract in separate accounts and variable annuities at contract year end.

☐ Pooled separate accounts
☐ Other separate accounts
☐ Variable annuities. If you check this box, indicate whether the variable annuity contact has any of the following (check all that apply):

(i) Types of subaccounts:
☐ Domestic Stock/Equity
☐ Bond/income
☐ Balanced/target allocation
☐ Money Market
☐ Target date/Lifecycle
☐ International/Global Stock/Equity
☐ Sector/economy segment
☐ Other subaccounts (Describe)
(ii) Features
☐ Death benefit
☐ Guaranteed living benefit
☐ Other (specify)

5. [Current Line 6] Contracts With Allocated Funds:

a. State the basis of premium rates

b. Premiums paid to carrier

c. Premiums due but unpaid at the end of the year

d. If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy:

(i) Enter amount
(ii) Specify the nature of the costs

e. Type of contract:

(i) ☐ Individual policies

(ii) ☐ Group deferred annuity
(iii) ☐ Other (specify)

f. If contract purchased, in whole or in part, to distribute benefits from a terminating plan, check here: ☐

6. [Current Line 7] Contracts With Unallocated Funds (Do not include portions of these contracts maintained in separate accounts)

a. Type of contract:
(1) ☐ Deposit administration
(2) ☐ Immediate participation guarantee
(3) ☐ Guaranteed investment
(4) ☐ Other (specify)

b. Balance at the end of the previous year

c. Additions:
(1) Contributions deposited during the year
(2) Dividends and credits
(3) Interest credited during the year
(4) Transferred from separate account
(5) Other (specify)
(6) Total additions

d. Total of balance and additions (add Lines **8b** and **8c(6)**)

e. Deductions:
(1) Disbursed from fund to pay benefits or purchase annuities during year
(2) Administration charge made by carrier
(3) Transferred to separate account
(4) Other (specify)
(5) Total deductions

f Balance at the end of the current year (subtract Line **8e(5)** from Line **8d**)

Part III Welfare Benefit Contract Information [Current Part III, Except As Noted By Line] If more than one contract covers the same group of employees of the same employer(s) or members of the same employee organizations(s), the information may be combined for reporting purposes if such contracts are experience-rated as a unit. Where contracts cover individual employees, the entire group of such individual contracts with each carrier may be treated as a unit for purposes of this report.

7. [Current Line 8 Combined With Current Line 1e Broken Out By Benefit Type; AD&D and Long Term Care Are New Breakouts] Benefit type. Check all applicable boxes and enter approximate number of persons covered at end of contract year by benefit type. (See instructions)

Columns for the following questions for "Benefit Type" and for "Approximate number of persons covered for each benefit listed"

a ☐ Health (other than dental or vision)
b ☐ Dental
c ☐ Vision
d ☐ Life insurance: [**new breakout**]
☐ term ☐ other (specify)
e ☐ Temporary disability (accident and sickness)
f ☐ Long-term disability
g ☐ Supplemental unemployment
h ☐ Prescription drug
i ☐ **[New]** Accidental death and disability
j ☐ **[New]** Long term care insurance
k ☐ Other (specify)

8 [Current Line 8i, j, k, l, m] Type of Contract. (Check applicable box.)

a ☐ Stop-loss (large deductible)
b ☐ HMO contract
c ☐ PPO contract
d ☐ Indemnity contract
e ☐ Other (specify)

9 [Current Line 9, Including Subparts] Experience-rated contracts:

9a Premiums:
(1) Amount received
(2) Increase (decrease) in amount due but unpaid
(3) Increase (decrease) in unearned premium reserve
(4) Earned ((1) + (2) − (3))

9b Benefit charges
(1) Claims paid
(2) Increase (decrease) in claim reserves
(3) Incurred claims (add (1) and (2))
(4) Claims charged

9c Remainder of premium:
(1) Retention charges (on an accrual basis)
(A) Commissions
(B) Administrative service or other fees
(C) Other specific acquisition costs
(D) Other expenses
(E) Taxes
(F) Charges for risks or other contingencies
(G) Other retention charges
(H) Total retention
(2) Dividends or retroactive rate refunds. Check here to indicate whether these amounts were:

☐ Paid in cash, or ☐ credited.

9d Status of policyholder reserves at end of year:
(1) Amount held to provide benefits after retirement
(2) Claim reserves
(3) Other reserves

9e Dividends or retroactive rate refunds due. (Do not include amount entered in Line 9c(2).)

10. [Current Line 10, Including Subparts] Nonexperience-rated contracts:

10a. Total premiums or subscription charges paid to carrier

10b. If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, other than reported in Part IV, Line 13 (Fee and Commission Information) report amount:

10c [Part of Current Line 10b] Specify nature of costs of amount reported on line 10b:

11 [New]

a Were there any premium payment delinquencies for premiums due but unpaid during the year?

☐ Yes ☐ No If "Yes," enter number of times delinquent and for each delinquency enter the number of days delinquent.

b If you answered "Yes" to line 11a, indicate whether any premium delinquency resulted in a lapse in coverage. If you answered "No" to line 11a, enter "N/A"

☐ Yes ☐ No ☐ N/A.

Part IV Fee and Commission Information

12 [Current Line 2] Insurance fee and commission information. Enter in Line 12 the total fees and total commissions paid in connection with the insurance carrier and contract entered in Line 1. List the agents, brokers, and other persons in descending order of the amount paid.

12a Total amount of commissions paid.

12b Total amount of fees paid

13 [Current Line 3] Persons receiving commissions and fees. (Complete as many entries as needed to report all persons).

13a [Current 3a] Name and address of the agent, broker, or other person to whom commissions or fees were paid.

13b [New] Relationship to plan, employer, employee organization, sponsor, fiduciary, or other party-in-interest

13c [Current 3b] Amount of sales and base commissions paid

13d [Current 3c] Amount of fees and other commissions paid

13e [Current 3d] Purpose of fees and other commissions paid

13f [Current 3e] Organization code (see instructions)

Part V Provision of Information [current Part IV]

14a [Current Line 11] Did the insurance company fail to provide any information necessary to complete Schedule A?

☐ Yes ☐ No

14b [Current Line 12, Except Checkbox Added for "Fee and Commission" and "Other" Instead of Just Open Text Field] If the answer to Line 14a is "Yes," specify the information not provided: ☐ Fee and commission information ☐ Other (specify)

Schedule C (Service Provider Information) [NEW FORMAT WHERE SEPARATE SCHEDULE C IS FILED FOR EACH SERVICE PROVIDER RATHER THAN SINGLE SCHEDULE C FILED THAT COVERS MULTIPLE SERVICE PROVIDERS]

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of plan
B Three-digit plan number [PN]
C Plan sponsor's name as shown on Line 2a of Form 5500
D Employer Identification Number (EIN)

[New (Revision of current indirect compensation reporting language to harmonize with 29 CFR 2550.408b–2)] You must complete a separate Schedule C, in accordance with the instructions, for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (*i.e.*, money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts.

A "covered service provider" for Schedule C reporting purposes includes: (1) ERISA fiduciary service providers to the plan or to a "plan asset" vehicle in which the plan invests; (2) investment advisers registered under Federal or State law; (3) persons who provide recordkeeping or brokerage services to a participant-directed individual account plan in connection with designated investment alternatives (*e.g.*, a "platform provider"); or (4) providers of one or more of the following services to the plan who received compensation from parties other than from the plan or plan sponsor in connection with such services: accounting, auditing, actuarial, banking, consulting, custodial, insurance, investment advisory, legal, recordkeeping, securities or other investment brokerage, third party administration, or valuation services.

[Deleted—Current Line 1 "Information on Persons Receiving Only Eligible Indirect Compensation"]

Part I Service Provider Information

1 [Current Line 2, except as indicated] Information on Service Providers Receiving Compensation in Connection with Services Rendered to the Plan or Their Position with the Plan.

1a [Current Line 2a, but adds requirement to give contact information for service providers that are natural persons] Enter name, EIN and address for the service provider. For a self-employed individual that does not have an EIN, you may enter "None" instead of an EIN. If the service provider identified is not an individual, in addition to the name, EIN and address of the entity, provide the name of and address for an individual or office that the plan would contact for information about the service arrangement. (See instructions.)

(1) Name of Service Provider
(2) EIN
(3) LEI (if available)
(4) Address
(5) Name of Contact
(6) Address of Contact

1b [Current Line 2c, except refers to relationship to plan rather than employer, plan sponsor or person known to be party-in-interest, and enumerates types of parties-in-interest instead of having all but the employer or employee organization to be reported as "other" person known to be a party-in-interest] Indicate whether the person identified in Line 1a has one of the following relationships to the plan. Check "not applicable" if the service provider does not have one of the listed relationships:

(1) ☐ Employer
(2) ☐ Plan Sponsor
(3) ☐ Named fiduciary
(4) ☐ Plan Sponsor Employee
(5) ☐ Plan Employee
(6) ☐ Employee Organization
(7) ☐ Other party-in-interest (describe)
(8) ☐ Not applicable

1c [Current Line 2b ("Service codes" only)] Check the appropriate box(es) to identify all services provided by the person identified in Line 1a:

(1) ☐ Plan Administrator
(2) ☐ Contract Administrator/third party administrator
(3) ☐ Trustee (discretionary)
(4) ☐ Trustee (directed)
(5) ☐ Investment management
(6) ☐ Recordkeeping and information management (computing, tabulating, data processing, etc.)
(7) ☐ Claims Processing
(8) ☐ Custodial (securities)
(9) ☐ Custodial (other than securities)
(10) ☐ Insurance agents and brokers
(11) ☐ Insurance services
(12) ☐ Real estate brokerage
(13) ☐ Securities brokerage
(14) ☐ Investment advisory (participants)
(15) ☐ Investment advisory (plan)
(16) ☐ Consulting (other than investment advice/management) (Enter description)
(17) ☐ Valuation (appraisals, etc.)
(18) ☐ Accounting (including auditing)
(19) ☐ Actuarial
(20) ☐ Form 5500 Annual Return/Report preparation
(21) ☐ Legal
(22) ☐ Participant loan processing
(23) ☐ Participant communication
(24) ☐ Information technology/computer support
(25) ☐ Copying and duplicating
(26) ☐ Other services (Describe)

1d [New] Check here ☐ if the person identified on Line 1a was a fiduciary within the meaning of section 3(21) of ERISA at any time during the plan year.

1e [New] Was the person identified in Line 1a also identified on Schedule A filed for this plan year as having received insurance fees and commissions?

☐ Yes ☐ No

1f [New] Did the service provider arrangement include use of an ERISA recapture, ERISA budget, or similar account during the plan year?

☐ Yes ☐ No

1g(1) [New] Did the service provider arrangement include recordkeeping services to a pension plan without explicit compensation for some or all of such recordkeeping services or with compensation for such recordkeeping offset or rebated in whole or in part based on other compensation received by the service provider, or an affiliate or subcontractor? Only pension plans answer line 1g(1) and 1g(2).

☐ Yes ☐ No

1g(2) [New] If you answered "Yes" to line 1g(1), using the same methodology used in the service provider's estimate of the cost to the plan of recordkeeping services, enter as a dollar figure the amount of compensation the service provider received for recordkeeping services.

2 [Current Line 2d] Direct Compensation Paid by or Charged to Plan. Enter the total amount of direct payments by the plan to the person identified in Line 1a. If none, enter "-0-".

3 [Current Line 2(g) and Line 3 revised] Indirect compensation received by covered service providers from sources other than the plan or plan sponsor, including charges against plan investments.

[Current Lines 2f and 2h eliminated]

3a [Current Line 2(g) as revised because "eligible indirect compensation" concept eliminated] Total amount of compensation received by the covered service provider identified in Line 1a in connection with services provided to the plan from sources other than the plan or plan sponsor, including charges against plan investments. Include compensation received by an affiliate or subcontractor in connection with the services rendered to the plan. Do not include here related party compensation paid among the person, affiliate or subcontractor reported on Line 4. (See instructions)

3b [Current Line 3] For compensation reported on Line 3a, identify each source from whom the person identified in Line 1a received compensation. (See instructions). Complete as many entries as needed to report the required information for each source.

(1) Enter name
(2) EIN
(3) LEI (if available)
(4) Enter as a dollar figure the amount or estimate of compensation received from the source identified in Line 3b(1).
(5) Check the appropriate box(es) to identify all type(s) of fees/compensation received by the provider identified in Line 1a from the source identified in Line 3b(1).

(A) ☐ Investment management fees
(B) ☐ Sales loads (front end and deferred)
(C) ☐ Account maintenance fees
(D) ☐ "Soft dollars" commissions
(E) ☐ Securities brokerage commissions and fees
(F) ☐ Shareholder servicing fees
(G) ☐ Sub-transfer agency (subaccounting) fees
(H) ☐ Finders' fees/placement fees
(I) ☐ Distribution (12b-1) fees
(J) ☐ Insurance brokerage commissions and fees
(K) ☐ Insurance mortality and expense charges
(L) ☐ Insurance wrap fees
(M) ☐ Termination fees (surrender charges, etc.)
(N) ☐ Float revenue
(O) ☐ Non-monetary compensation (Enter description)
(P) ☐ Commissions other than securities and insurance (*e.g.*, real estate commissions)
(Q) ☐ Recordkeeping fees
(R) ☐ Other fees/compensation (Enter description)

(6) If the amount of compensation reported in Line 3b(4) was an estimate based on a formula, check here ☐ and enter a description of the formula used to determine the service provider's eligibility for or the amount of the compensation.

4a [New] Did the service arrangement involve any related party compensation? (See instructions). If the answer to Line 4a is "Yes," complete Line 4b(1)-(4)

4b(1) Describe the services for which the compensation was paid

(2) Enter names of
(A) the payor and
(B) the recipient of the compensation
(3) Identify status as an ☐ affiliate or ☐ subcontractor
(4) Enter the amount of the compensation

Part II Service Providers Who Fail or Refuse to Provide Information [Current Part II; because a separate Schedule C would be provided for each service provider, no need to provide the name and EIN of the service provider who failed or refused to provide information; current Lines 4a and 4b eliminated]

5a [Current Line 4] Check this box if the service provider failed or refused to provide the information necessary to complete this Schedule.

5b [Current Line 4c] Describe the information that the service provider failed or refused to provide.

Schedule D

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX**+1

A Name of plan

B Three-digit plan number (PN)

C Plan or DFE sponsor's name as shown on Line 2a of Form 5500:

D Employer Identification Number (EIN)

[Current Part I eliminated]

[Current Part II, with added items for dollar value of investing plan/DFE interest as of end of reporting DFE year and check box whether DFE had investors other than plans covered by Title I of ERISA that file the Form 5500 Annual Return/Report].

1 Information on Participating Plans (to be completed by DFEs) Complete as many entries as needed to report all participating plans.

1a Plan name (as shown on Line 1a of the plan's most recent Form 5500/Form 5500–SF):

1b Name of plan sponsor (as shown on line 2a of the plan's most recent Form 5500/Form 5500–SF):

1c(1) EIN of sponsor of investing plan (as shown on Line 2b of the plan's most recent Form 5500/Form 5500–SF)

1(c)(2) PN of investing plan (as shown on Line 1b of the plan's most recent Form 5500/Form 5500–SF)

1d [New] Dollar value of investing plan/DFE interest at end of reporting DFE year:

1e [New] If the DFE had investors other than plans that are required to file the Form 5500 or Form 5500–SF (see instructions), check here ☐.

Schedule E (ESOP Annual Information)

Heading [Change from 2008 to list DOL and IRS/Treasury instead of just Treasury/IRS]

[Change from 2008 to add Title I Authority to Code Authority]—This schedule is required to be filed under section 104 of the Employee Retirement Income Security Act of 1974 (ERISA) and sections 6058(a) and 6047(e) of the Internal Revenue Code (the Code).

[Change from 2008, which specified Schedule E NOT Open to Public Inspection] Disclosure: This Form is Open to Public Inspection.

[2008 Basic Identifying Information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of plan:

B Plan number

C Plan sponsor's name as shown on Line 2a of Form 5500

D EIN

Part I Employer Stock Acquired with a Securities Acquisition Loan [New]—Complete this Part only if the ESOP had an outstanding securities acquisition loan within the meaning of Code section 4975(d)(3) and ERISA section 408(b)(3) during the plan year.

Common Stock

1a [New] Enter the number of common shares of employer stock held in the ESOP at the end of the plan year.

1b [New] Enter percent of issued and outstanding common stock held in the ESOP at the end of the plan year.

1c [Current Schedule R, Line 12] Are the shares readily tradable on an established securities market? ☐ Yes ☐ No

1d [New] Enter number of allocated common shares at the end of the plan year.

1e [New] Enter number of unallocated common shares at the end of the plan year.

1f [2008 Schedule E, Line 5] If common stock was released from a loan suspense account, indicate the methods used:

☐ Principal and interest
☐ Principal only
☐ Other (Describe method):

Preferred Stock

1g [2008 Schedule E, Line 4] Did the ESOP hold preferred stock at the end of the plan year?

☐ Yes ☐ No

1h [New breakout] If convertible based on a ratio, enter ratio.

1i [New breakout] If convertible by some other method, describe the method of conversion.

Part II [New breakout] Employer Stock Acquired Complete this Part only if the ESOP acquired during the plan year employer securities not readily tradable on an established securities market. Complete as many entries as necessary to report each separate transaction.

2a [New] Enter seller's relationship to plan, employer, or other party-in-interest (if no relationship, enter "unrelated third party")

2b [New] Is seller a party-in-interest?

☐ Yes ☐ No

2c [New] Enter total consideration paid for stock

2d [New] Enter date of transaction

2e [New] Check the applicable box and enter the identifying information if an independent fiduciary, trustee, or investment manager approved the transaction

☐ Trustee
☐ Investment Manager
☐ Independent fiduciary
Name
Street Address
City
State
Zip Code
EIN

2f [New] Identify the independent appraiser that valued the employer securities. (If an independent appraiser did not value the employer securities, enter "None." **CAUTION:** See Code section 401(a)(28)(C) if you enter "None.")

Name
Street Address
City
State
Zip Code
EIN

2g [New] What valuation approach was used to value the stock acquired? (Check all that apply.)

☐ Asset
☐ Income
☐ Market
☐ Book Value
☐ Other (Enter description):

Part III Securities Acquisition Loans [2008 Schedule E, Line 2a, with new breakouts as indicated]—Complete this Part only if the ESOP had outstanding securities acquisition loans within the meaning of Code section 4975(d)(3) and ERISA section 408(b)(3) during the plan year. Complete as many entries as necessary to report all outstanding loans.

3a [New breakout] Lender's relationship to plan, employer, or other party-in-interest (if no relationship, enter "unrelated third party")

3b [New breakout] ☐ Check box if lender is a party-in-interest?

3c [New breakout] Is the loan guaranteed by a party-in-interest?

☐ Yes ☐ No

3d [New breakout] Enter original amount of loan

3e [2008 Schedule E, Line 9a] Enter date of loan

3f [New breakout] Enter interest rate (if variable enter terms)

3g [New breakout] Is the loan in default?

☐ Yes ☐ No If "Yes," enter the amount overdue.

3h [New breakout] (1) Was the loan refinanced or amended during the plan year?

☐ Yes ☐ No

If "Yes," complete Line 3h(2) and (3)

(2) Enter date of amendment or refinancing.

(3) Enter the outstanding balance at date of refinancing or amendment

Part IV Other General Information

4a [New] Were employee elective deferrals used to satisfy any securities acquisition loan?

☐ Yes ☐ No

4b [2008 Schedule E, Lines 1a and 1b] If the ESOP is maintained by an S corporation, are there any disqualified persons as described in Code section 409(p)(4)?

☐ Yes ☐ No

4c [2008 Schedule E, Line 6] Were unallocated securities or proceeds from the sale of unallocated securities used to repay any exempt loan (within the meaning of Code section 4975(d)(3) and ERISA section 408(b)(3))?

☐ Yes ☐ No

If "Yes," attach a description of the transaction.

4d [2008 Schedule E, Line 2b] Did the employer maintaining the ESOP pay dividends (deductible under Code section 404(k)) on the employer's stock held by the ESOP during the employer's tax year in which the plan year ends?

☐ Yes ☐ No

If "Yes," answer (d)(1)–(3).

(1) What was the amount of the deduction taken?

(2) What was the dividend rate?

(3) Did the employer make payments in redemption of stock held by an ESOP to ESOP participants and deduct them under Code section 404(k)(1)?

☐ Yes ☐ No

Schedule G—Financial Transactions

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

[Identification information same as current Schedule G]

A Name of plan
B Three-digit plan number (PN)
C Plan sponsor's name as shown on Line 2a of Form 5500
D Employer Identification Number (EIN)

Part I. [Current Part I] Schedule of Loans or Fixed Income Obligations in Default or Classified as Uncollectible

1 [Current Line 1] Schedule of Loans in Default or Classified as Uncollectible. Complete as many entries as needed to report all loans in default or classified as uncollectible. (See Instructions.)

1a [Current Part I(b)] Identity and address of obligor

Name
Street Address
City
State
Zip Code

1b [New Breakout] Relationship to plan. (Check all boxes that apply.) Obligor is a:

☐ **[New breakout]** participant
☐ **[Current Part I(a)]** party-in-interest (*e.g.* employer, employee organization, employee of the plan, or other party-in-interest)

Enter description of the relationship (If no relationship exists, enter "unrelated third party")

1c [Part of Current Part I(c)] Check to indicate whether the loan is:

☐ in default
☐ uncollectible

1d [Current Part I(d)] Enter original amount of loan

1e [Part of Current Part I(c)] Enter original interest rate. If variable, describe terms.

1f [Part of Current Part I(c)] Date of loan origination

1g [Part of Current Part I(c)] Maturity date

1h (1) [Part of Current Part I(c)] Was the loan secured by collateral? ☐ Yes ☐ No If "Yes," complete elements (2) and (3).

(2) **[New breakout]** Was the security interest perfected? ☐ Yes ☐ No

(3) **[Part of Current Part I(c)]** Enter a description of collateral and value of collateral:

Collateral type
Collateral value

1i [Part of Current Part I(c)] Scheduled payment frequency (*e.g.*, monthly, annually). Enter description

1j [Current Part I(e) and (f)] Amount received during reporting year:

Principal
Interest

1k [Current Part I(h) and (i)] Amount overdue:

Principal
Interest

1l [Current instructions require an attachment with this information]. Enter a description of what steps the plan administrator has taken or will be taking to collect overdue amounts for each loan listed.

2 Schedule of Fixed Income Obligations in Default or Classified as Uncollectible. [Breaks out fixed income obligations from loans; current Schedule G has filers completing same elements for both loans and fixed income obligations.] Complete as many entries as needed to report all fixed income obligations in default or classified as uncollectible. (See Instructions.)

2a [Current Part I(b)] Identity and address of obligor

Name
Street Address
City
State
Zip Code

2b [Current Part I(a)] Check ☐ if party-in-interest (*e.g.* employer, employee organization, employee of the plan, or other party-in-interest) was involved in the transaction.

[New breakout] Enter description of the relationship. If no relationship exists, enter "unrelated third party."

2c [Part of current Part I(c)] Check to indicate whether the fixed income obligation is:

☐ in default
☐ uncollectible

2d [New breakout; part of description in current Part I(c)] Check applicable boxes to indicate the nature of the fixed income obligation:

☐ Bond
☐ Option
☐ Swap
☐ Future contract
☐ Forward contract
☐ Other (Enter description)

2e [Part of current Part I(c)] Date of issuance

2f [Part of current Part I(c)] Maturity date

2g [Part of current Part I(c)] Enter coupon yield or interest rate

2h [Current Part I(e)] Principal amount of fixed income obligation

2i [Current Part I(h) and (i)] Amount overdue:

Principal
Interest

2j [Current instructions require an attachment with this information] Enter a description of what steps the plan administrator has taken or will be taking to collect overdue amounts for each fixed income obligation listed.

Part II Schedule of Leases in Default or Classified as Uncollectible. Complete as many repeating entries as needed to report all leases in default or classified as uncollectible. (See instructions.)

3a [Current Part II(b)] Identity and address of lessor/lessee:

Name
Street Address
City
State
Zip Code

3b [Current Part II(a) and (c)] Relationship to plan, employer, employee organization, or other party-in-interest (if no relationship, enter "unrelated third party"). Check to indicate whether lessor/lessee is ☐ party-in-interest and enter description of relationship (including whether plan is lessor or lessee):

3c [Part of current Part II] Overdue Lease Explanation. Check to indicate whether the lease is in ☐ default ☐ uncollectible.

3d [Part of current Part II(d)] Enter the address of the leased property:

Street Address
City
State
Zip Code

3e [Part of current Part II(d)] Enter date of lease origination

3f [Current Part II(e)] Original cost of leased property

3g [Current Part II(f)] Current value of leased property at time of lease

3h [Current Part II(g)] Gross rental receipts during the plan year

3i [Current Part II(h)] Expenses paid during the plan year

3j [Current Part II(i)] Net receipts

3k [Part of current Part II(d)] Scheduled payment frequency (*e.g.*, monthly, annually)

3l [Part of current Part II(d)] Lease expiration date

3m [Current Part II(j)] Amount in arrears

3n [Current instructions require an attachment with this information]. Enter an explanation of what steps the plan administrator has taken or will be taking to collect overdue amounts for each lease listed.

Part III Nonexempt Transactions. Complete as many entries as needed to report all nonexempt transactions.

CAUTION: If a nonexempt prohibited transaction occurred with respect to a disqualified person, the disqualified person should generally file a Form 5330 with the IRS to pay the excise tax on the transaction.

Line 4 [Current Part III(a)]

4a Name and address of party-in-interest (or parties in interest, if multiple) involved in the nonexempt prohibited transaction:

Name
Street Address
City
State
Zip Code:

4b [Current Part III(b)] Relationship to plan, employer, employee organization, plan sponsor, fiduciary, or other party-in-interest

4c [Revision of Current Part III(c), but current requirement to provide a description of transaction replaced with checkboxes; written description only required for "other"] Type of nonexempt transaction (Check all that apply):

☐ Sale of any property to/from the plan
☐ Exchange of any property
☐ Lease of any property to/from the plan
☐ Lending of money to/from the plan
☐ Other extension of credit to/from the plan
☐ Furnishing of goods to/from the plan
☐ Furnishing of services to/by the plan
☐ Furnishing of facilities to/by the plan
☐ Other transfer to a party-in-interest, of any income or assets of the plan
☐ Other use by or for the benefit of a party-in-interest, of any income or assets of the plan
☐ Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA 407(a)
☐ Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are

adverse to the interests of the plan or the interests of its participants and beneficiaries

☐ A receipt of any consideration for his or her personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan

☐ Other (enter description)

4d [New] Check the appropriate box (see instructions) to describe nature of transaction:

☐ Discrete
☐ Ongoing

4e [Part of current Part III (c)] Date of the transaction or, if ongoing, date of first instance

4f [Part of current Part III (c)] Amount involved in nonexempt transaction

4g [Current Part III (j)] Net gain (or loss) on the transaction

4h [New] Has the transaction been fully corrected (see instructions)? ☐ Yes ☐ No

If "Yes", check the correct box below and complete (i) and (j):

☐ Transaction corrected outside VFCP
☐ Transaction corrected through the VFCP
☐ Transaction pending correction through VFCP

4i [New] If the transaction was fully corrected, enter the date the transaction was fully corrected: MM/DD/20YY

4j [New] If the nonexempt transaction was corrected enter a description of the corrective action (*i.e.* reversal, disgorgement, loan repaid, payment to plan, etc.)

4k [New] If the nonexempt transaction occurred with respect to a disqualified person, and the person was notified, was a Form 5330 filed with the IRS?

☐ Yes
☐ No
☐ Unknown
☐ Not required-VFCP
☐ Disqualified person was not notified

Schedule H—Financial Information

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of Plan

B Three-digit plan number (PN)

C Plan sponsor's name as shown on line 2a of Form 5500

D Employer Identification Number of plan sponsor (EIN)

Part I Asset and Liability Statement

1. [Current Line 1, except reference to "MTIA" changed to "Master Trust;" changes to individual data elements as indicated] Current value of plan assets and liabilities at the beginning and end of the plan year. Combine the value of plan assets held in more than one trust. Report the value of the plan's interest in a commingled fund containing the assets of more than one plan on a line-by-line basis unless the value is reportable on Lines 1b(5)–1b(8). Do not enter the value of that portion of an insurance contract which guarantees, during this plan year, to pay a specific dollar benefit at a future date. **Round off amounts to the nearest dollar.** Master trusts, CCTs, PSAs, and 103–12 IEs do not complete Lines 1a(1), (2) and (3), 1g, 1h, and 1i. CCTs, PSAs, and 103–12 IEs also do not complete Lines 1(c)(1) and (2) and 1d. (See instructions.)

Assets [Columns for **(a)** Beginning of Year (BOY) and **(b)** End of Year (EOY) Values]

[Current Line 1a Moved to Line 1b(1)]

1a [Current 1b] Receivables (less allowance for doubtful accounts):

(1) [Current 1b(1)] Employer contributions

(2) [Current 1b(2)] Participant contributions

(3) [Current 1c(8)] Notes receivable from participants (participant loans)

(4) [Current 1b(3)] Other

1b [Current 1c; with changes as indicated] General investments—

(1) [Current 1a] Total noninterest-bearing cash

(2) [Current 1c(1) with new breakouts])

(A) Interest-bearing cash

(B) Certificates of deposit

(C) Money market accounts

(3) [New breakouts] Debt interests/obligations (other than employer securities, participant loans, and foreign investments)

(A) [Current 1c(2)] U.S. Government securities

(B) [New] Other government securities

(C) [Current 1c(3) Corporate debt instruments (other than employer securities)

(i) Investment grade

(ii) High-yield debt

(D) [New] Exchange Traded Notes

(E) [New] Asset backed securities (other than real estate)

(F) [New and Partial Current 1c(7)] Other debt interests

(4) [Current 1c(4)] Corporate stocks (other than employer securities and foreign investments):

(A) [New breakout] Publicly traded

(i) Preferred

(ii) Common

(B) [New breakout] Non-publicly traded

(i) Preferred

(ii) Common

(5) [Current 1c(13)] Registered investment companies (Mutual funds, Unit Investment Trusts, Closed End Funds)

(6) [New breakout] Eligible Pooled Investment Vehicles (other than registered investment companies)

(A) [Current 1c(10] Total value of interest in pooled separate accounts (PSA)

(B) [Current 1c(9)] Total value of interest in common collective trusts (CCT)

(C) [Current 1c(12)] Value of interest in 103–12 investment entities (103–12 IEs) (See instructions)

(D) [Current 1c(11)] Total value of interest in master trusts

(7) [Current 1c(14)] Value of interest in funds held in insurance general account (unallocated contracts)

(A) [New breakout] Deposit administration

(B) [New breakout] Immediate participation guarantee

(C) [New breakout] Guaranteed investment contracts

(D) [New breakout] Other unallocated insurance contracts (Describe)

(8)(A) [Current 1c(5)] Partnership/joint venture interests

(i) [New breakout] Value of interest in limited partnerships

(ii) [New breakout] Value of interest in venture capital operating companies (VCOC)

(iii) [New breakout] Private equity

(iv) [New breakout] Hedge funds

(v) [New breakout] Other partnership/joint venture interests (Describe)

(B) [New sub-part question not part of sum on balance sheet]

(i) Total partnership/joint venture interests that do not hold plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101.

(ii) Total partnership/joint venture interests that hold plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101.

(9) [Current 1c(6)] Real Estate Investments (other than employer real property and foreign investments)

(A) [New breakout] Developed real property (other than employer real property)

(B) [New breakout] Undeveloped real property (other than employer real property)

(C) [New breakout] Publicly Traded Real Estate Investment Trusts (REITs)

(D) [New breakout] Non-Publicly Traded Real Estate Investment Trusts (REITs)

(E) [New breakout] Mortgage-Backed Securities (Including Collateralized Mortgage Obligations)

(F) [New breakout] Real Estate Operating Company (REOC)

(G) [New breakout] Other real estate related investments (Describe)

(10) [New breakout] Commodities (direct investments)

(A) [New breakout] Precious metals

(B) [New breakout] Other (Describe)

(11) [New breakout] Derivatives

(A) [New breakout] Futures

(B) [New breakout] Forwards

(C) [New breakout] Options

(D) [New breakout] Swaps

(E) [New breakout] Other (Describe, *e.g.*, collateralized debt obligations other than real estate)

(12) [Current 3g on Schedule I] Tangible Personal Property (including collectibles)

(13) [New breakout] Foreign investments (Other than those held through registered investment companies or eligible pooled investment vehicles)

(A) Equities

(B) Debt interests

(C) Real estate

(D) Currency

(E) Other (Describe)

(14) [New breakout] Value of assets held in participant-directed brokerage accounts (See instructions)

(A) Tangible personal property

(B) Loans

(C) Partnership or joint venture interests

(D) Real property

(E) Employer securities

(F) Investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction, including derivatives

(G) Other (including cash/cash equivalents, registered investment companies, corporate equities, corporate debt instruments)

1c [Current 1d except breakout for non-publicly traded stock and debt] Employer-related investments

(1) Employer securities

(A) Publicly traded stock

(B) Non-publicly traded stock

(C) Publicly traded debt instruments

(D) Non-publicly traded debt

(2) Employer real property

1d [Current 1e] Buildings and other property used in plan operation

1e [Current 1c(15)] Other ([New] Describe)

1f [Current 1f] Total assets (Add Lines 1a through 1e.)

Liabilities [Columns for **(a)** BOY **(b)** EOY Values]

1g [Current 1g] Benefit claims payable

1h [Current 1h] Operating payables

1i [Current 1i] Acquisition indebtedness

1j [Current 1j] Other liabilities

1j(1) [New] Enter description

1k [Current 1k] Total liabilities (add all amounts in Lines 1g through 1j)

Net Assets

1l [Current] Net assets (subtract Line 1k from Line 1f)

Part II Income and Expense Statement

2 [Current 2] Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. Master trusts, CCTs, PSAs, and 103–12 IEs do not complete Lines 2a, 2b, 2e, 2f, and 2g.

2a [Current 2a] Contributions—

(1) Received or receivable in cash from:

(A) Employers

(B) Participants

(C) Others (including rollovers from IRAs/ other plans)

(2) Noncash contributions

(3) Total contributions. Add Lines **2a(1)(A), (B), (C),** and Line **2a(2).**

2b [Current 2b(1)(E) with new breakouts] Interest on notes receivable from participants (participant loans)

(1) Received in cash

(2) Receivable in cash

(3) Total. Add Lines 2b(1) and 2b(2).

2c [Current 2b with new breakouts] Earnings on investments. Provide the total of all earnings by asset type including interest, dividends, gain (loss) on sale of property, unrealized appreciation (depreciation), net investment gain (loss), as appropriate for asset type. Report on Lines 2c(1)(A) and 2(c)(2)(A), respectively, interest and dividends on debt and equity instruments held directly by the plan.

(1) Interest on debt instruments/obligations

(A) Interest bearing cash (including money market and certificates of deposit)

(B) U.S. government securities

(C) Other government securities

(D) Corporate debt instruments

(E) Loans (other than to participants)

(F) Other

(G) Total interest. Add Line 2c(1)(A) through (F)

(2) Dividends (other than employer securities)

(A) Preferred stock

(B) Common stock

(C) Registered investment company shares (*e.g.*, mutual funds)

(D) Total dividends. Add Line 2c(2)(A) through (C).

(3) Rents

(4) Net gain (loss) on sale of assets

(A) Aggregate proceeds

(B) Aggregate carrying amount (see instructions)

(C) Subtract Line 2c(4)(B) from Line 2c(4)(A) and enter result

(5) Unrealized appreciation (depreciation) of assets

(A) Real estate

(B) Partnership/joint venture interests that do not hold plan assets

(C) Commodities (direct investments)

(D) Derivatives

(E) Employer securities

(F) Foreign investments (other than those held through U.S. registered investment funds)

(G) Employer real property

(H) Other (Describe)

(6) Pooled Investment Vehicles

(A) Net investment gain (loss) from common/collective trusts

(B) Net investment gain (loss) from pooled separate accounts

(C) Net investment gain (loss) from master trusts

(D) Net investment gain (loss) from 103–12 investment entities

(E) Net investment gain (loss) from registered investment companies (*e.g.*, mutual funds)

2d [Current 2d] Total income. Add all **income** amounts in column (b).

Expenses—[Current]

2e [Current 2e] Benefit payment and payments to provide benefits:

(1) Directly to participants or beneficiaries

(A) **[New breakout from current 2d(1)]** Direct rollovers

(B) **[New]** Hardship distributions made from a section 401(k) plan

(C) **[Current 2016 Line 4o]** Distributions to employees who have attained age 62 and who were not separated from service when the distributions were made for a defined benefit plan or a money purchase pension plan

(D) **[Current 2e(1) except rollovers no longer reported in other]** Other

(2) **[Current]** To insurance carriers for the provision of benefits

(3) **[Current]** Other

(4) **[Current]** Total benefit payments. Add Lines 2e(1) through (3).

2f [Current] Corrective distributions (See instructions.)

2g [Current] Certain deemed distributions of participant loans (See instructions.)

2h [Current] Interest expense

2i [Current 2i with new breakouts as indicated] Administrative expenses:

(1) **[New Breakout (1998 Line 32g(1)]** Salaries and allowances

(2) **[Current 2i(2)]** Contract administrator fees

(3) **[Current 2i(3)]** Investment advisory and management fees

(4) **[New Breakout]** IQPA Audit fees

(5) **[New based on 1998 Line 32g(2)]** Recordkeeping and other accounting fees

(6) **[New Breakout]** Bank or Trust Company Trustee/Custodial Fees

(7) **[New Breakout (1998 Line 32g(3))]** Actuarial fees

(8) **[New Breakout (1998 Line 32g(6))]** Legal fees

(9) **[New Breakout (1998 Line 32g(7))]** Valuation/appraisal fees

(10) **[New Breakout (1998 Line 32g(8))]** Trustee fees/expenses (including travel, seminars, meetings, etc.)

(11) **[Current 2i(4)]** Other

(12) **[12(C) is Current 2i(5); (A) and (B) are new breakouts]** Total administrative expenses

(A) Total paid by the plan, except charges directly against participant accounts

(B) Total payments charged directly against participant accounts

(i) Transaction-based charges to individual participant accounts

(ii) Plan level expenses apportioned among participant accounts

(iii) Indicate how apportioned:

☐ per capita

☐ pro rata by account balance

☐ other (describe):

(C) Total. (The amount shown in (C) should be the total of elements (A) and (B). Element (C) should also be the same as the total of Lines 2i(1) through (11).)

2j [Current 2j] Total expenses. Add all **expense** amounts in column **(b) (EOY)** and enter total.

Net Income and Reconciliation

2k [Current] Net income (loss). Subtract Line 2j from Line 2d.

2l [Current] Transfers of assets—

(1) [Current 2l(1)] Transfers to this plan. Total at EOY

(2) [Current 2l(2)] Transfers from this plan. Total at EOY

Part III Accountant's Opinion.

Subject to certain exceptions, the administrator of an employee benefit plan who files a Schedule H must engage an Independent Qualified Public Accountant (IQPA) pursuant to ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b). This requirement also applies to a Form 5500 Annual Return/Report filed for a 103–12 IE and for a GIA (see 29 CFR 2520.103–12 and 29 CFR 2520.103–2). The IQPA's report must be attached to the Form 5500 Annual Return/ Report when a Schedule H is attached unless you check Line 3h(1), (2), (3), or (4) on the Schedule H. An IQPA Report generally consists of an Accountant's Opinion, Financial Statements, Notes to the Financial Statements, and Supplemental Schedules.

3 [Current] Complete Lines 3a through 3g if the opinion of an IQPA is attached to this Form 5500 Annual Return/Report. Complete Line 3h if an opinion is not attached.

3a [Current] The attached opinion of an IQPA for this plan is (see instructions):

(1) ☐ Unqualified

(2) ☐ Qualified

(3) ☐ Disclaimer

(4) ☐ Adverse

3b [Current question; new requirement to attach certification(s)] Did the IQPA perform a limited scope audit pursuant to 29 CFR 2520.103–8 and/or 103–12(d)?

☐ Yes ☐ No

If "Yes" you must attach a copy of the certification(s). (Although you must attach a copy of the certification(s), you do not need to include any attachments to the certification itemizing the assets to which the certification(s) apply.)

3c [Current] Enter the name and EIN of the IQPA (or accounting firm) below:

(1) Name
(2) EIN
(3) Name of audit engagement partner

3d [New] Identify the state in which the opinion was issued

3e [New] Did you review and discuss the IQPA report with the accountant?

☐ Yes ☐ No

3f [New] Did the accountant advise you whether the IQPA report, including the financial statements and/or notes required to be attached to this return/report or the IQPA's communications with those charged with governance (SAS 114 and 115), disclosed any of the following (check all that apply):

(1) ☐ Errors or irregularities
(2) ☐ Illegal acts
(3) ☐ Material internal control weaknesses
(4) ☐ A loss contingency indicating that assets are impaired or a liability incurred
(5) ☐ That the plan sponsor may not be a going concern
(6) ☐ The existence of plan qualification issues pursuant to the Internal Revenue Code
(7) ☐ Any unusual or infrequent events or transactions occurring subsequent to the plan year end that might significantly affect the usefulness of the financial statements in assessing the plan's present or future ability to pay benefits (explain)

3g [New] Did your IQPA have a peer review performed in accordance with their state's requirements?

☐ Yes ☐ No

If "Yes," complete elements (1) through (5).

(1) Name of peer reviewer
(2) Year of their last peer review
(3) Rating received in their last peer review report
(4) Number of years that the peer reviewer has been the firm's peer reviewer
(5) Whether the peer review covered employee benefit plans

3h [Current 3d] The opinion of an IQPA is not attached because (check appropriate box):

(1) ☐ This form is filed for a CCT, PSA, or master trust.

(2) ☐ Pursuant to 29 CFR 2520.104–50, the IQPA report will be attached to the next Form 5500 Annual Return/Report.

(3) ☐ The IQPA report was not completed in time. If you check this box, you must explain the reason for the failure to comply with the IQPA requirement in a timely fashion and indicate date by which an amended filing will be made with an IQPA report.

(4) **[Current 4k on Schedule I]** ☐ The plan is a small plan and is eligible to claim a small plan audit waiver of the annual examination and report of an IQPA under the conditions set forth in 29 CFR 2520.104–46. (See instructions). In addition to meeting other conditions in 29 CFR 2520.104–46, in order to be a small plan for this purpose, the plan must have fewer than 100 participants as of the beginning of the plan year as reported on Form 5500 or be eligible to claim small plan status under 29 CFR 103–1(d) and had 120 or fewer participants as of the beginning of the plan year. Defined benefit pension plans and welfare plans use the number reported on Form 5500, Line 6 for this measure. Defined contribution pension plans use the number reported on Form 5500, Line 7g(1). (See instructions.)

Part IV Compliance Questions

Employee benefit plans must complete all lines that apply. Employee benefit plans must complete all lines that apply. Small employee benefit plans that were eligible for and claimed the small plan audit waiver by checking Line 3g(4), must complete all elements in Part IV, except such small plans do not need to attach Schedules G or the Line 4j Schedule of Reportable Transactions, even if they answer "Yes" to Lines 4b, 4c, 4d, or 4j. CCTs and PSAs complete only Line 4i(1). Master trusts and 103–12 IEs complete only Lines 4b, 4c, 4d, 4i, 4j, and 4s. GIAs complete only Lines 4b, 4c, 4d, 4i, 4j, and 4k.

During the plan year:

4a [Current; but would require use of specified structured data format to complete and file Line 4a schedule] Was there a failure to transmit to the plan any participant contributions or repayments as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets as described in 29 CFR 2510.3–102?? (See instructions). Continue to answer "Yes" for any prior year failures until fully corrected. (See instructions and DOL's **Voluntary Fiduciary Correction Program.**) If you answered "Yes," you must complete the Line 4a schedule to provide details about the failure to transmit, including any corrective action taken.

☐ Yes ☐ No Amount

4b [Current] Were any loans by the plan or fixed income obligations due the plan in default as of the close of the plan year or classified during the year as uncollectible? Disregard participant loans secured by the participant's account balance. If you answered "Yes," see instructions for requirements to attach Schedule G (Form 5500) Part I. Small plans that were eligible for and claimed the small plan audit waiver under 29 CFR 2520.104–46 do not need to attach Schedule G Part I.

☐ Yes ☐ No Amount

4c [Current] Were any leases to which the plan was a party in default or classified during the year as uncollectible? If you answered "Yes," see instructions for requirements to attach Schedule G (Form 5500) Part II. Small plans that were eligible for and claimed the small plan audit waiver under 29 CFR 2520.104–46 do not need to attach Schedule G Part II.

☐ Yes ☐ No Amount

4d [Current] Were there any nonexempt prohibited transactions with any party-in-interest? (Do not include transactions reported on Line 4a. If you answered "Yes," see instructions for requirements to attach Schedule G (Form 5500) Part III. Small plans that were eligible for and claimed the small plan audit waiver under 29 CFR 2520.104–46 do not need to attach Schedule G Part III.

☐ Yes ☐ No Amount

4e [Current Line 4e revised] Was this plan covered by one or more fidelity bonds naming the plan as insured that provide coverage for losses due to fraud or dishonesty by persons who handle plan funds or other property? (See instructions.)

☐ Yes ☐ No Amount

4f [Current] Did the plan have a loss, whether or not reimbursed by the plan's fidelity bond, that was caused by fraud or dishonesty?

☐ Yes ☐ No Amount

4g [Current Line 4g revised] Did the plan hold any assets that either did not have a readily determinable fair value or were not valued by an independent third party appraiser? (See instructions)

☐ Yes ☐ No Amount

4h [Current] Did the plan receive any noncash contributions whose value was neither readily determinable on an established market nor set by an independent third party appraiser?

☐ Yes ☐ No Amount

4i [Current Line 4i; Except would now break out question into 4i(1) and 4i(2) and require use of specified structured data format to complete and file Schedules of Assets]

(1) Did the plan have assets held for investment at the end of the year? If "Yes," you must complete the Line 4i(1) Schedule of Assets Held for Investment at End of Year.

☐ Yes ☐ No

(2) Did the plan have assets held for investment that were sold or otherwise disposed of during the plan year (see instructions)? If "Yes," you must complete the Line 4i(2) Schedule of Assets Disposed of During the Plan Year.

☐ Yes ☐ No

4j [Current, but would require use of specified structured data format to complete and file Line 4j Schedule of Reportable Transactions] Were any plan transactions or series of transactions in excess of 5% of the current value of plan assets? If "Yes," you must complete the Schedule of Reportable Transactions. (See instructions). Small plans that were eligible for and claimed the small plan audit waiver do not need to attach the Line 4j Schedule of Reportable Transactions.

☐ Yes ☐ No

[Part of current Line 4k moved to Form 5500; part moved to Part V of Schedule H]

4k [Current 4l] Has the plan failed to provide any benefit when due under the plan?

☐ Yes ☐ No Amount

4l [Current 4m] If this is an individual account plan, was there a blackout period? (See instructions and 29 CFR 2520.101–3.)

☐ Yes ☐ No Amount

4m [Current 4n] If you answered "Yes" to Line 4l, check the "Yes" box here if you either provided the required notice or one of the exceptions to providing the notice applied under 29 CFR 2520.101–3.

☐ Yes ☐ No

4n [New] Is this a participant-directed individual account plan (*e.g.,* a 401(k)-type or 403(b) defined contribution pension plan), subject to the requirements in 29 CFR 2550.404a5 to disclose plan and investment related information to participants and beneficiaries?

☐ Yes ☐ No

4o [New] If you answered "Yes" to Line 4n, did the plan provide participants and beneficiaries the plan and investment disclosures required under 29 CFR 2550.404a–5?

☐ Yes ☐ No

If you answered "Yes," you must attach the investment option comparative chart or charts that were used to satisfy the disclosure requirement in 29 CFR 2550.404a–5(d)(2).

4p [New] If you answered "Yes," to Line 4n, enter the number of designated investment alternatives (DIAs) available under the plan and indicate the number of DIAs that are index funds. Also, check all that apply to indicate the types of DIAs available under the plan:

☐ Domestic Stock/Equity
☐ Bond/income
☐ Balanced/target allocation
☐ Money Market
☐ Target date/Lifecycle
☐ International/Global Stock/Equity
☐ Sector/economy segment
☐ Other funds (Describe)

4q [New] If you answered "Yes," to Line 4n, did the plan make available to participants and beneficiaries a designated investment manager (DIM)?

☐ Yes ☐ No Enter name of DIM.

4r [New] If you answered "Yes," to Line 4n, did the plan make available to participants and beneficiaries any brokerage window, self-directed brokerage account or similar plan arrangements that enabled participants to select investments beyond those designated by the plan?

☐ Yes ☐ No

If you answered "Yes" to Line 4r, enter the number of participants that utilized the account or arrangement

4s [New] Did the plan trust incur unrelated business taxable income (UBTI)?

☐ Yes ☐ No ☐ NA

If "Yes," enter amount,

4t [New] Were all plan assets valued at least annually at fair market value?

☐ Yes ☐ No

4u [New] Did any employer sponsoring the plan pay any of the administrative expenses of the plan that were not reported on Schedule H, Line 2i?

☐ Yes ☐ No

4v [New] Did any person who is disqualified under ERISA Section 411, serve or was permitted to serve the plan in any capacity?

☐ Yes ☐ No

4w [New] Does the plan have investment acquisitions that are leveraged, including assets subject to collateralized lending activities (*e.g.,* securities lending arrangements, repurchase agreements (repos), etc.)?

☐ Yes ☐ No If "Yes," you must complete Lines 4w(1), (2), and (3).

(1) Check box to indicate type of activity:

☐ securities lending, including repurchase agreements or sell/buy-backs
☐ other, *e.g.,* transactions that subjected plan assets to a mortgage, lien, or other security interest (describe)

(2) (A) amount of cash obligated in connection with collateralized lending activities at end of year

(B) value of securities obligated in connection with collateralized lending activities at end of year

(C) other assets obligated in connection with collateralized lending activities at end of year

(3) approximate ratio of collateralized/leveraged investments to total plan assets at end of year

4x [New] Did the plan sponsor or its affiliates provide any services to the plan in exchange for direct or indirect compensation?

☐ Yes ☐ No

4y [New (based on 1998 Line 8a)] Is the plan's summary plan description (SPD), including any summary descriptions of modifications, in compliance with the content requirements in 29 CFR 2520.102–3? (See instructions.)

☐ Yes ☐ No

4z [New] If this is an individual account plan, were there any checks to participants or beneficiaries that were uncashed as of the end of the plan year? ☐ Yes ☐ No. If "Yes," complete 4z(1)–(4)

(1) Enter number of uncashed checks

(2) Enter total value of uncashed checks

(3) Describe the procedures followed by the plan to verify a participant's or beneficiary's address before a check was mailed.

(4) Describe the procedures followed by the plan to monitor uncashed checks, including steps to locate "missing" or "lost" participants.

Part V Termination Information on Accountants, Enrolled Actuaries and Other Service Provider

(See Instructions.) (Complete as many entries as needed.)

5 [Current Part III of Schedule C except adds check boxes to element (c)] Has any accountant or actuary been terminated?

☐ Yes ☐ No If "Yes, complete elements (a)–(f).

5a Name

5b EIN

5c [Current element (c), but adds check boxes to distinguish between accountant and actuary] Position and title (See instructions.)

☐ Accountant
☐ Actuary

5d Address

5e Telephone

5f Explanation of reason for termination

6 [New] Have any of the plan's service providers, other than an accountant or actuary who has been identified in Line 5, been terminated for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b–2? ☐ Yes ☐ No If "Yes," complete elements (a)–(e) to identify the service provider.

6a Name

6b EIN

6c Address

6d Telephone

6e Explanation of reason for termination

6f ☐ Check if termination was due to failure to provide required disclosures under 29 CFR 2550.408b–2.

Part VI Plan Termination Information

7a [Revised to ask about any resolution to terminate regardless of when adopted] Has a resolution to terminate the plan been adopted? You must continue to report a pending resolution until the plan terminates and is no longer filing the Form 5500 Annual Return/Report. (See instructions.)?

☐ Yes ☐ No If "Yes," complete Line 7a(1)–(3) below:

(1) **[New]** Effective date of plan termination:

(2) **[New]** Year the plan assets were distributed to plan participants and beneficiaries:

(3) **[Current 5a]** The amount of plan assets that reverted to the employer this year

7b [Current 5b] Transfer to other plans. Did this plan transfer assets or liabilities to another plan since the (20**XX–1**) filing?

☐ Yes ☐ No If "Yes," complete elements (1)–(5) to provide the following information with respect to each plan to which the assets or liabilities were transferred. Complete as many entries as needed to identify all transfers.

(1) **[Current 5b(2)]** EIN

(2) **[Current 5b(3)]** PN

(3) **[New]** Date of transfer:

(4) **[Current 5b(1)]** Name of Plan (Use name on transferee plan's Form 5500 Annual Return/Report filing.):

(5) **[New]** Type of transfer:

☐ Merger
☐ Consolidation
☐ Spinoff
☐ Other (Describe)

(6) **[Part of current Line 4k]** Were all plan assets transferred to another plan? ☐ Yes ☐ No

[Current 5c moved to Form 5500]

7c [New] Transfers from other plans. Did another plan transferred assets or liabilities to this plan since the (20**XX–1**) filing, or in the case of a first plan filing, transfer assets or liabilities in conjunction with the creation of this new plan?

☐ Yes ☐ No If "Yes," provide the following information with respect to each plan from which assets or liabilities were transferred:

(1) EIN

(2) PN

(3) Date of transfer

(4) Name of Plan (Use name on transferor Plan's Form 5500 Annual Return/Report filing.):

(5) Type of transfer:

☐ Merger
☐ Consolidation
☐ Spinoff
☐ Other (Describe)

7d [New] Terminated Defined Contribution Pension Plans: Transfers to Financial Institution. Did this plan, as part of the procedures for terminating the plan, transfer plan assets to interest bearing federally insured bank accounts in the name of missing participants? ☐ Yes ☐ No If "Yes," complete elements (1)–(5). List each financial institution where plan assets were transferred. You must continue reporting this information until the final return/report is filed for the plan.

(1) Financial Institution's Name
(2) Financial Institution's EIN
(3) Date of transfer
(4) Number of accounts established
(5) Total amount transferred

7e [Part of current Line 4k with a new subpart to report the year.] Were all the plan assets distributed to participants or beneficiaries? ☐ Yes ☐ No

Part VI—Trustee Information—[Current Part V but proposed no longer optional starting 2016 See IRS Federal Register Notice "Proposed Collection; Comment Request for the Annual Return/Report of Employee Benefit Plan"]

8 Complete as many entries as needed to identify all trusts holding plan assets. Do not include trusts that are part of pooled investment funds that hold the assets of two or more unrelated plans.

8a [Current] Name of Trust
8b [Current] Trust EIN
8c [New] Name of Trustee/Custodian
(1) **[New]** Trustee/Custodian Address
(2) **[New]** Telephone Number
(3) **[New—intended to be electronic signature]** Date and Signature of Trustee/Custodian:

Trustee Signature for Purposes of the Code

SIGN HERE Signature of plan trustee or custodian:

Enter Date:

Enter name of individual signing as trustee or custodian:

Schedule H Line 4a—Schedule of Delinquent Participant Contributions

(a) Amount remitted late to plan during plan year	**(b)** Amount due, but unremitted during the plan year	**(c)** Number of contribution cycles involved (number of payrolls)	**(d)(1)** Amount corrected in VFCP **(2)** Amount not corrected under PTE 2002–51	**(e)** Amount pending correction in VFCP	**(f)** Amount corrected outside VFCP	**(g)** Check here if participant loan repayments are included: ☐	**(h)** For any amount reported in Element (d), did you file your IRS Form 5330 and pay applicable excise taxes? ☐ Yes ☐ No	**(i)(1)** If reporting for a multiemployer plan, amount, if any, determined during the plan year to be uncollectible **(2)** Explain what steps were taken to collect overdue amounts

Line 4i(1) Schedule of Assets Held for Investment at End of Year (Complete as many entries in each element as needed to identify all assets held for investment at end of year)

(a) Assets Held directly by the plan (including assets held through an participant-directed brokerage window) For each asset which the plan holds for investment purposes that is not a type of assets required to be listed in (b) through (e) below, complete elements (i)–(vii).

(i) Check if issuer, borrower, lessor or similar party is party-in-interest ☐	(ii) Name of issuer, borrower, lessor, or similar party	(iii) Is the asset a hard-to-value asset? ☐ Yes ☐ No	(iv) CUSIP, CIK, LEI, NAIC Company Code, other registration number:	(v) Cost	(vi) Indicate Sch. H, Line 1b asset category.	(vii) Description of investment, including, as applicable, share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge. See instructions for reporting assets held through a participant-directed brokerage account.

(b) Investments in Master Trust (repeat as many entries as needed to identify holdings in master trusts) For each master trust in which the plan invested, break out plan's interest in each asset in the master trust(s) in elements (i)–(viii). Do not include master trust holdings in which the plan has no interest.

(i) Enter name, EIN/PN of sponsor of master trust used on master trust's Form 5500.

(ii) Check if issuer, borrower, lessor or similar party is party-in-interest ☐	(iii) Name of issuer, borrower, lessor, or similar party (See instructions)	(iv) Is the asset a hard-to-value asset? ☐ Yes ☐ No	(v) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code, other registration number:	(vi) Cost	(vii) Indicate Sch. H, Line 1b asset category	(viii) Description of investment, including, as applicable, share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge.

(c) Investments in PSAs and CCTs (repeat as many entries as needed to identify holdings in PSAs and CCTs) If the PSA filed a Form 5500, complete elements (i)–(vii) indicating the value of the plan's shares in the PSA or CCT. For PSAs or CCTs that have not filed a Form 5500, break out plan's proportionate interest in each asset in the PSA of CCT in elements (i)–(ix) and include the name and identifying numbers for the non-filing CCT or PSA, as well a description of the asset held through the non-filing CCT or PSA.

(i) Enter name, EIN/PN of sponsor of CCT/PSA.				(ii) Check if issuer, borrower, lessor or similar party is party-in-interest ☐		
(iii) Did the PSA or CCT filed a Form 5500 Yes ☐ No ☐	(iv) Name of issuer, borrower, lessor, or similar party (see Instructions)	(v) Is the asset a hard-to-value asset? ☐ Yes ☐ No	(vi)) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code: Other registration number:	(vii) Cost	(viii) Indicate Sch. H, Line 1b asset category	(ix) Description of investment, including, as applicable, share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge.

(d) Investments in 102–12 Investment Entities (repeat as many entries as needed to identify holdings in 103–12 IEs). For each 103–12IE in which the plan invested, complete elements (i)–(vii) indicating the value of the plan's shares in the **in each 103–12IE in elements (i)–(viii).**

(i)Enter name, EIN of provider of the 103–12 IE.					(ii) Check if issuer, borrower, lessor or similar party is party-in-interest ☐
(iii) Name of issuer, borrower, lessor, or similar party (See instructions)	(iv) Is the asset a hard-to-value asset? ☐ Yes ☐ No	(v) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code: Other registration number:	(vi) Cost	(vii) Indicate Line 1b asset category.	(viii) Description of investment, including, as applicable, share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge.

Line 4i(2) Schedule of Assets Disposed of During the Plan Year [Current elements of Schedule of Assets Acquired and Disposed of During Plan Year; element (b) currently unlettered] (Complete as many entries as necessary to identify all assets sold during plan year

(a) Enter name, EIN of issuer, borrower, lessor, or similar party				(b) Check if issuer, borrower, lessor or similar party is party-in-interest ☐			
(c) Check if asset was acquired during plan year ☐	(d) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code, Other registration number:	(e) Sch. H, Line 1b category	(f) Cost	(g) Selling price	(h) Expenses incurred with disposal of asset	(i) Net gain (loss) on transaction	(j) Description of investment, including maturity date, rate of interest, collateral, par, or maturity value

Schedule H, Line 4j—Schedule of Reportable Transactions [Current Line 4j Schedule, except (a) is new and remaining elements are re-lettered in sequence] Complete as many repeating elements as necessary to identify all reportable transactions.

(a) Check here if transaction involved a person/entity known to be party-in-interest ☐	(b) Identity of party involved	(c) Description of asset (include interest rate and maturity in case of a loan)		(d) Purchase price
(e) Selling price	(f) Lease rental	(g) Expense incurred with transaction (including all fees)	(h) Cost of asset	(i) Current value of asset on transaction date

[New Schedule] Schedule J (Form 5500)—Group Health Plan Information

For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of plan

B Three-digit plan number (PN)

C Plan sponsor's name as shown on Line 2a of Form 5500

D Employer Identification Number (EIN)

Plans that have fewer than 100 participants at the beginning of the plan year and are fully insured (see instructions) complete only basic identifying information and Part I, Lines 1–8. GIAs must complete a separate Schedule J for each participating plan.

Part I—Group Health Plan Characteristics

1 Approximate number of persons (including participants, beneficiaries and dependents of participants) covered under the plan at the end of the plan year?

2 The plan offers health coverage to the following (check all that apply):

☐ employees

☐ spouses
☐ children
☐ retirees
☐ retirees only

3 Indicate which of the following types of benefit(s) and design characteristics are included under the plan. (Check all that apply):

☐ medical/surgical benefits
☐ mental health/substance use disorder benefits
☐ pharmacy or prescription drug benefits
☐ wellness program
☐ preventive care services
☐ emergency services
☐ pregnancy benefits
☐ vision
☐ dental

4 Health funding and benefit arrangement (check all that apply):

4a(1)(a) ☐ health insurance issuer. If you check this box, enter name(s), EIN, and National Insurance Product Registry Number of insurance carriers providing benefits under the plan.

4a(1)(b) If the health funding or benefit arrangement is through a prototype/off-the-shelf insurance product, enter the identification number of the prototype/off-the-shelf insurance product.

4a(1)(c) Please check whether one or both of the following are used to pay premiums:

☐ employer contributions
☐ participant contributions

4a(2) ☐ benefits paid from general assets of the employer

☐ employer contributions
☐ participant contributions

4a(3) ☐ trust

☐ employer contributions
☐ participant contributions

5 Check all that apply to the plan:

☐ one or more benefit package options claiming grandfathered status under the Affordable Care Act
☐ high deductible health plan
☐ health reimbursement arrangement (HRA) or plan includes an HRA
☐ health flexible spending account (FSA) or plan includes an FSA

6a How many persons were offered COBRA benefits during the plan year?

6b Of the persons counted in line 6a, how many persons elected COBRA benefits?

6c How many persons were receiving coverage under the plan through COBRA during the plan year?

7a Did the plan or plan sponsor receive any rebates, reimbursement, or refunds other than those reported on Schedule A from service providers during the plan year? ☐ Yes ☐ No If "Yes," you must complete Line 7b. If "No," skip to Line 8.

7b(1) If you answered "Yes" to Line 7a, enter separately the amount and date received of each rebate, reimbursement, or refund. For each rebate, reimbursement, or refund listed, complete elements 7b(2) and 7b(3).

(2) Type of service provider that provided each rebate, reimbursement, or refund

☐ health insurance issuer
☐ third-party administrator
☐ pharmacy benefit manager
☐ other (specify)

(3) How each rebate, reimbursement, or refund was used (Check all that apply):

☐ amount returned to participants
☐ premium holiday
☐ payment of benefits
☐ other

8a If any benefits were provided pursuant to an insurance policy that was not reported on Schedule A, were there any premium payment delinquencies for premiums due but unpaid during the year? ☐ Yes ☐ No If "Yes," enter number of times delinquent and for each delinquency enter the number of days delinquent

8b If you answered "Yes" to line 8a, indicate whether any premium delinquency resulted in a lapse in coverage. If you answered "No" to line 8a, enter "N/A".
☐ Yes ☐ No ☐ N/A

Part II—Service Provider and Stop Loss Insurance Information

(Repeat as many line entries as necessary to report all service providers under each category that have not already been reported on Schedule A or Schedule C.)

9 Third Party Administrator/Claims Processor, including a health insurance issuer subject to an "administrative services only (ASO)" or other agreement: ☐ N/A

a Name, address and telephone number
b EIN
c NAIC NPN
d If third party administrator/claims processing or similar services are being provided to the plan through a prototype/off-the-shelf ASO arrangement, enter the identification number of such insurance product

10 Mental Health Benefits Manager: ☐ N/A

a Name, address and telephone number
b EIN
c NAIC NPN

11 Substance Use Disorder Benefits Manager: ☐ N/A

a Name, address and telephone number
b EIN
c NAIC NPN

12 Pharmacy Benefit Manager/Drug Provider: ☐ N/A

a Name, address and telephone number
b EIN
c NAIC NPN

13 Independent Review Organization: ☐ N/A

a Name, address and telephone number
b EIN
c NAIC NPN

14 Wellness Program Manager: ☐ N/A (may be the same contact information for wellness program required under 29 CFR 2590.702(f)(2)(v)).

a Name, address and telephone number
b EIN
c NAIC NPN

15 Was there a stop loss policy associated with the plan's obligation to pay health benefits? If so, complete the following (Include information on all stop loss policies issued in connection with plan benefits, including policies with the employer/plan sponsor as the insured).

a Name of insurance carrier
b EIN
c NAIC NPN
d Total premium
e Attachment point of coverage
Individual attachment point of coverage (if applicable)
Aggregate attachment point of coverage (if applicable)
f Claim Limit
Individual claim limit (if applicable)
Aggregate claim limit (if applicable)
g Policy or contract year from ________ to ________.
h Check this box if the employer/plan sponsor is the insured ☐

Part III—Financial Information.

Plans that complete Schedule H skip to Part IV.

16 Contributions received during the plan year or receivable as of end of plan year:

a Employer contributions received
b Employer contributions receivable
c Participant contributions received
d Participant contributions receivable
e Other contributions received or receivable (including non-cash)
f Total contributions. Add Lines 16 a–e.

17 Was there a failure to transmit to the plan any participant contributions or repayments as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets as described in 29 CFR 2510.3–102? ☐ Yes ☐ No

Part IV—Health Benefit Claims Processing and Payment.

18a Enter the number of post-service benefit claims submitted during the plan year.

(1) How many of those claims were approved during the plan year?
(2) How many of those claims were denied during the plan year?
(3) How many of those claims were pending at the end of the plan year?

18b Enter the number of post-service benefit claim denials appealed during the plan year.

(1) How many of those appeals were upheld during the plan year as denials?
(2) How many of those appeals were overturned and approved during the plan year after appeal?

18c Enter the number of pre-service benefit claims appealed during the plan year.

(1) How many of those appeals were upheld during the plan year as denials?
(2) How many of those appeals were approved during the plan year after appeal?

19 Were there any claims for benefits or appeals of adverse benefit determinations that were not adjudicated within the required timeframes? ☐ Yes ☐ No. If "Yes," enter

(1) Number of claims
(2) Number of appeals

20 Did the plan fail to pay any claims during the plan year within one (1) month of being approved for payment? ☐ Yes ☐ No If "Yes," enter the

(1) Number of claims not paid within one (1) month
(2) Total amount not paid within one (1) month

(3) Number of claims not paid within three (3) months or longer

21 Total dollar amount of benefits paid pursuant to claims during the plan year.

Part V—Compliance Information. [Current Form 5500 Part III; the move limits plans required to complete this part to those providing health benefits] Plans that file the Form M–1, skip questions 24–30.

22a Were all plan assets held in trust, held by an insurance company qualified to do business in a State, or as insurance contracts or policies issued by such an insurance company? (See section 403 of ERISA and 29 CFR 2550.403a–1 and 2550.403b–1)?

☐ Yes ☐ No If you check "No," you must complete Line 22b.

22b Check all that apply and enter an explanation if checking "Other":

☐ Plan assets not held in trust based on reliance on Technical Release 92–01

☐ Other (explain)

23 Are the plan's summary plan description (SPD), including any summary descriptions of modifications, and summary of benefits and coverage (SBC) in compliance with the applicable content requirements? (See instructions.)

23a Summary Plan Description (SPD):

☐ Yes ☐ No

23b Summary of Benefits and Coverage (SBC) ☐Yes ☐No

24 Is the coverage provided by the plan in compliance with the provisions of the Health Insurance Portability and Accountability Act of 1996, as incorporated in ERISA, and the Department's regulations thereunder?

☐ Yes ☐ No ☐ N/A

25 Is the coverage provided by the plan in compliance with the provisions of Title I of the Genetic Information Nondiscrimination Act of 2008 as incorporated in ERISA, and the Department's regulations issued thereunder?

☐ Yes ☐ No ☐ N/A

26 Is the coverage provided by the plan in compliance with the Mental Health Parity Act of 1996 and the Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 and the Department's regulations issued thereunder?

☐ Yes ☐ No ☐ N/A

27 Is the coverage provided by the plan in compliance with the Newborns' and Mothers' Health Protection Act of 1996 and the Department's regulations issued thereunder?

☐ Yes ☐ No ☐ N/A

28 Is the coverage provided by the plan in compliance with the Women's Health and Cancer Rights Act of 1998?

☐ Yes ☐ No ☐ N/A

29 Is the coverage provided by the plan in compliance with Michelle's Law?

☐ Yes ☐ No ☐ N/A

30 Is the coverage provided by the plan in compliance with the Affordable Care Act and the Department's regulations issued thereunder?

☐ Yes ☐ No ☐ N/A

31a Was the plan subject to the Form M–1 filing requirements during the plan year? (See instructions and 29 CFR 2520.101–2.)

☐ Yes ☐ No If "Yes" is checked, complete Lines 31b and 31c.

31b Is the plan currently in compliance with the Form M–1 filing requirements? (See instructions and 29 CFR 2520.101–2.) ☐ Yes ☐ No

31c Enter the Receipt Confirmation Code for the 20XX Form M–1 annual report. If the plan was not required to file the 20XX Form M–1 annual report, enter the Receipt Confirmation Code for the most recent Form M–1 that was required to be filed under the Form M–1 filing requirements. (Failure to enter a valid Receipt Confirmation Code will subject the Form 5500 Annual Return/Report filing to rejection as incomplete.)

Receipt Confirmation Code

Schedule MB—Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of Plan

B Three-digit plan number (PN)

C Plan sponsor's name as shown in Line 2a of the Form 5500 or 5500–SF

D Employer Identification Number (EIN)

E Type of plan: (1) ☐ Multiemployer Defined Benefit (2) ☐ Money Purchase (see instructions)

1 [Current]

1a Enter the valuation date:

1b Assets:

(1) Current value of assets

(2) Actuarial value of assets for funding standard account

1c(1) Accrued liability for plan using immediate gain method

1c(2) Information for plans using spread gain methods:

(a) Unfunded liability for methods with bases

(b) Accrued liability under entry age normal method

(c) Normal cost under entry age normal method

1c(3) Accrued liability under unit credit cost method

1d Information on current liabilities of the plan:

(1) Amount excluded from current liability attributable to pre-participation service (see instructions)

(2) "RPA '94" information:

(a) Current liability

(b) Expected increase in current liability due to benefits accruing during the plan year

(c) Expected release from "RPA '94" current liability for the plan year

(3) Expected plan disbursements for the plan year

2 [Current] Operational information as of the beginning of this plan year:

a Current value of assets (see instructions)

	(1) Number of participants	(2) Current liability
b "RPA '94" current liability/participant count breakdown		
(1) For retired participants and beneficiaries receiving payment		
(2) For terminated vested participants		
(3) For active participants		
(a) Non-vested benefits (b) Vested benefits (c) Total active		
(4) Total		

c If the percentage resulting from dividing Line 2a by Line 2(b)(4), column (2), is less than 70%, enter such percentage.

3 [Current, except report withdrawal liability payments separately from employer contributions and there is minor re-wording of Lines 3(b) and (c).] Contributions made to the plan for the plan year by employer(s) including withdrawal liability payments and contributions to the plan made by employees:

3 Contributions made to the plan for the plan year by employer(s) including withdrawal liability payments and contributions to the plan made by employees:

(a) Date (MM–DD–YYYY)	**(b)** Contribution amount paid by employers	**(c)** Withdrawal liability payments	**(d)** Contribution amount paid by employees
Totals:			

4 Information on plan status:

4a [Current] Funded percentage for monitoring plan's status (Line 1b(2) divided by Line 1c(3))

4b [Current] Enter code to indicate plan's status (see instructions for attachment of supporting evidence of plan's status). If code is "N," go to Line 5.

4c [Current] Is the plan making the scheduled progress under any applicable funding improvement or rehabilitation plan? ☐ Yes ☐ No

4d [Current] If the plan is in critical status or critical and declining status, were any benefits reduced (see instructions)? ☐ Yes ☐ No

4e [Current] If Line 4d is "Yes," enter the reduction in liability resulting from the reduction in benefits (see instructions), measured as of the valuation date.

4f [Current] If the rehabilitation plan projects emergence from critical status or critical and declining status, enter the plan year in which it is projected to emerge.

If the rehabilitation plan is based on forestalling possible insolvency, check here ☐ and enter the plan year in which insolvency is expected.

5 [Current instructions and for 2016 as data element, except prior Line 5i (Reorganization) is deleted and Lines 5j–n are renumbered to reflect MPRA 2014 changes] Actuarial cost method used as the basis for the plan year's funding standard account computations (check all that apply):

5a ☐ Attained age normal
5b ☐ Entry age normal
5c ☐ Accrued benefit (unit credit)
5d ☐ Aggregate
5e ☐ Frozen initial liability
5f ☐ Individual level premium
5g ☐ Individual aggregate
5h ☐ Shortfall
5i [Current Line 5j] ☐ Other (specify):

5j [Current Line 5k] If box h is checked, enter period of use of shortfall method

5k [Current Line 5l] Has a change been made in funding method for this plan year? ☐ Yes ☐ No

5l [Current Line 5m] If Line 5k is "Yes," was the change made pursuant to Revenue Procedure 2000–40 or other automatic approval? ☐ Yes ☐ No

5m [Current Line 5n] If Line 5k is "Yes," and line l is "No," enter the date (MM/DD/YYYY) of the ruling letter (individual or class) approving the change in the funding method.

6 [Current—except that Lines 6(g)(2) and 6(h)(2) with check boxes are added to be answered if a statement showing the actuary's estimate of the rate of return (actuarial or market value) and calculation of the rate is attached.] Checklist of certain actuarial assumptions:

a Interest rate for "RPA '94" current liability		%
	Pre-retirement	Post-retirement
b Rates specified in insurance or annuity contracts	[] Yes [] No [] N/A	[] Yes [] No [] N/A
c Mortality table code for valuation purposes	▨	▨
(1) Males		
(2) Females		
d Valuation liability interest rate	%	%
e Expense loading	______%___[] N/A	______%___[] N/A
f Salary scale	______%___[] N/A	▨
g(1) Estimated investment return on actuarial value of assets for year ending on the valuation date		%
g(2) [New] If a statement showing the actuary's estimate of the rate of return and calculation of that rate is required to be attached, provide the attachment and check the box		[]
h(1) Estimated investment return on current value of assets for year ending on the valuation date		%
h(2) [New] If a statement showing the actuary's estimate of the rate of return and calculation of that rate is required to be attached, provide the attachment and check the box		[]

7 [Current except that information on amortization charges and credits that was previously reported for Lines 9c and 9h as an attachment would be reported on Line 7 of the form.]

Amortization Bases (This will have a variable number of repeating rows; but typically fewer than 50)

(1) Type of base	**(2)** Outstanding balance of remaining payments	**(3)** Valuation date base was established	**(4)** Years remaining in amortization period	**(5)** Amortization amount
Totals:				

8 Miscellaneous information:

8a [Current] If a waiver of a funding deficiency has been approved for this plan year, enter the date (MM/DD/YYYY) of the letter ruling granting the approval.

8b(1)(a) [Current] Is the plan required to provide a projection of expected benefit payments? ☐ Yes ☐ No

8b(1)(b) [Current except moved to the face of the form] If 8b(1)(a) is "Yes," complete the schedule below:

Plan Year	Schedule of Projection of Expected Annual Benefit Payments
Current plan year	
Current plan year plus 1	
Etc.	
Current plan year plus 9	

8b(2)(a) [Current] Is the plan required to provide a Schedule of Active Participant Data ? (see instructions) ☐ Yes ☐ No

8b(2)(b) [Current except moved to the face of the form] If 8b(2)(a) is "Yes," complete the schedule below and items 8b(2)(c) and 8b(2)(d).

Line 8b(2)(b) - Schedule of Active Participant Data

	Credited Service									
Attained Age	Under 1			1 to 4				40 & up		
		Average			Average				Average	
	No.	Comp.	Cash. Bal.	No.	Comp.	Cash. Bal.		No.	Comp.	Cash . Bal.
Under 25										
25 to 29										
Etc.										
70 & up										

8b(2)(c) [New] Average age of active participants as of the valuation date

8b(2)(d) [New] Average credited service of active participants as of the valuation date

8b(3)(a) [New] Is the plan required to provide a Schedule of Retired Participants and Beneficiaries Receiving Payment Data? (See the instructions) ☐ Yes ☐ No

8b(3)(b) [New] If 8b(3)(a) is "Yes," complete the schedule below and items 8b(3)(c) and 8b(3)(d).

Schedule of Retired Participants and Beneficiaries Receiving Payment Data

Attained Age	Number	Average Annual In-Pay Benefit Amount
Under 55		
55 to 59		
Etc.		
90 and up		

8b(3)(c) [New] Average Age for Retired Participants and Beneficiaries as of the valuation date

8b(3)(d) [New] Average Annual In-Pay Benefit for Retired Participants and Beneficiaries as of the valuation date

8b(4)(a) [New] Is the plan required to provide a Schedule of Terminated Vested Participant Data? (See the instructions) ☐ Yes ☐ No

8b(4)(b) [New] If 8b(4)(a) is "Yes," complete the schedule below and items 8b(4)(c) through 8b(4)(f).

Schedule of Terminated Vested Participant Data

Attained Age	Number	Average Annual Benefit Amount
Under 25		
25 to 29		
Etc.		
70 and up		

8b(4)(c) [New] Average age of terminated vested participants as of the valuation date

8b(4)(d) [New] Average annual benefit of terminated vested participants as of the valuation date

8b(4)(e) [New] Assumed form of payment shown

8b(4)(f) [New] Assumed age of first payment for benefits shown

8c [Current] Are any of the plan's amortization bases operating under an extension of time under section 412(e) (as in effect prior to 2008) or section 431(d) of the Code? ☐ Yes ☐ No

8d [Current] If Line 8c is "Yes," provide the following additional information:

(1) Was an extension granted automatic approval under section 431(d)(1) of the Code? ☐ Yes ☐ No

(2) If Line 8d(1) is "Yes," enter the number of years by which the amortization period was extended.

(3) Was an extension approved by the Internal Revenue Service under section 412(e) (as in effect prior to 2008) or 431(d)(2) of the Code? ☐ Yes ☐ No

(4) If Line 8d(3) is "Yes," enter the number of years by which the amortization period was extended (not including the number of years in Line (2))

(5) If Line 8d(3) is "Yes," enter the date of the ruling letter approving the extension

(6) If Line 8d(3) is "Yes," is the amortization base eligible for amortization using interest rates applicable under section 6621(b) of the Code for years beginning after 2007? ☐ Yes ☐ No

8(e) [Current] If box 5h is checked or Line 8c is "Yes," enter the difference between the minimum required contribution for the year and the minimum that would have been required without using the shortfall method or extending the amortization base(s).

Line 9 [Current, except a check box is added to Line 9f to be answered if an explanation of a prior year credit balance/funding deficiency discrepancy is attached.]

9 Funding standard account statement for this plan year: **Charges to funding standard account:**		
a Prior year funding deficiency, if any		
b Employer's normal cost for plan year as of the valuation date		
c Amortization charges as of valuation date:	Outstanding balance	
(1) All bases except funding waivers and certain bases for which the amortization period has been extended		
(2) Funding waivers		
(3) Certain bases for which the amortization period has been extended		
d Interest as applicable on Lines 9a, 9b, and 9c		
e Total charges. Add Lines 9a through 9d		
Credits to funding standard account:		
f(1) Prior year credit balance, if any		
f(2) [Current, except check box added] If an explanation of a prior year credit balance/funding deficiency discrepancy is attached, check here		[]
g Employer contributions. Total from columns (b) plus (c) of Line 3		
	Outstanding balance	
h Amortization credits as of the valuation date		
i Interest as applicable to end of plan year on lines 9f, 9g, and 9h		
j Full funding limitation (FFL) and credits:		
(1) ERISA FFL (accrued liability FFL)		
(2) “RPA ‘ 94” override (90% current liability FFL)		
(3) FFL Credit		
k(1) Waived funding deficiency		
(2) Other credits		
l Total credits. Add Lines 9f through 9i, 9j(3), 9k(1), and 9k(2)		
m Credit balance: If Line 9l is greater than Line 9e, enter the difference		
n Funding deficiency: If Line 9e is greater than Line 9l, enter the difference		
o Current year's accumulated reconciliation account:		
(1) Due to waived funding deficiency accumulated prior to the 20XX plan year		
(2) Due to amortization bases extended or amortized using the interest rate under section 6621(b) of the Code:		
(a) Reconciliation outstanding balance as of the valuation date		
(b) Reconciliation amount (Line 9c(3) balance minus Line 9o(2)(a))		
(3) Total as of valuation date		

10 [Current] Contribution necessary to avoid an accumulated funding deficiency (see instructions)

11 [Current] Has a change been made in the actuarial assumptions for the current plan year?

If "Yes," see instructions. ☐ Yes ☐ No

Statement by Enrolled Actuary [Current, except that information previously reported on an attachment per the instructions will be reported on the Schedule.] To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements, and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

Signature of actuary

Date
Type or print name of actuary
Most recent enrollment number
Firm name
Telephone number (including area code)
Address of firm

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, provide the information requested in the instructions in this line and check here ☐

SCHEDULE R (Form 5500) Retirement Plan Information

[Current header and identifying information] For calendar plan year 20**XX** or fiscal plan year beginning DD/MM/20**XX** and ending DD/MM/20**XX+1**

A Name of plan
B Three-digit plan number (PN)
C Plan sponsor's name as shown on line 2a of Form 5500
D Employer Identification Number (EIN)

Part I Distributions.

All references to distributions relate only to payments of benefits during the plan year.

1 [Current] Total value of distributions paid in property other than in cash or the forms of property specified in the instructions

2 [Current] Enter the EIN(s) of payor(s) who paid benefits on behalf of the plan to participants or beneficiaries during the year (if more than two, enter EINs of the two payors who paid the greatest dollar amounts of benefits):

EIN(s):

Profit-sharing plans, ESOPs, and stock bonus plans, skip Line 3.

3 [Current Line 3, with new breakout numbers for active, terminated vested, retired] Number of participants (living or deceased) whose benefits were distributed in a single sum, during the plan year

[Columns for (1) number of participants/(2) payment of annuities/(3) payment of lump sums]

Active
Terminated Vested
Retired

4 [New] Were required minimum distributions made to 5% owners who have attained age 70 ½ (regardless of whether or not retired) as required under section 401(a)(9) of the Internal Revenue Code?
☐ Yes ☐ No ☐ N/A

Part II Funding Information

(If the plan is not subject to the minimum funding requirements of section of 412 of the Internal Revenue Code or ERISA section 302, skip this Part)

5 [Current Line 4] Is the plan administrator making an election under Code section 412(d)(2) or ERISA section 302(d)(2)?
☐ Yes ☐ No ☐ N/A

If the plan is a defined benefit pension plan, go to Line 9.

6 [Current Line 5] If a waiver of the minimum funding standard for a prior year is being amortized in this plan year, see instructions and enter the date of the ruling letter granting the waiver.

If you completed Line 6, complete Lines 3, 9, and 10 of Schedule MB and do not complete the remainder of this schedule.

7a [Current Line 6] Enter the minimum required contribution for this plan year (include any prior year accumulated funding deficiency not waived).

7b [Current] Enter the amount contributed by the employer to the plan for this plan year

7c [Current] Subtract the amount in Line 7b from the amount in Line 7a. Enter the result (enter a minus sign to the left of a negative amount)

If you completed line 7c, skip Lines 9 and 10.

8 [Current Line 7] Will the minimum funding amount reported on Line 7c be met by the funding deadline? ☐ Yes ☐ No ☐ N/A

9 [Current Line 8] If a change in actuarial cost method was made for this plan year pursuant to a revenue procedure or other authority providing automatic approval for the change or a class ruling letter, does the plan sponsor or plan administrator agree with the change?
☐ Yes ☐ No ☐ N/A

Part III Determination and Amendment

10 [Current Line 9] If this is a defined benefit pension plan, were any amendments adopted during this plan year that increased or decreased the value of benefits? If "Yes," check the appropriate box. If no, check the "No" box": ☐ Increase ☐ Decrease ☐ Both ☐ No

11a [Current 2016 Line 22a] If the plan is a master and prototype plan (M&P) or volume submitter plan that received a favorable IRS opinion letter or advisory letter, enter the date of the letter __/__/__ and the serial number ______

11b [Current 2016 Line 22b] If the plan is an individually-designed plan that received a favorable determination letter from the IRS, enter the date of most recent determination letter: __/__/__.

[Current Part IV ESOPs—moved to new Schedule E]

Part IV [current Part V] Additional Information for Multiemployer Defined Benefit Pension Plans

12 [Current Line 13] Enter the following information for each employer that contributed more than 5% of total contributions to the plan during the plan year (measured in dollars). See instructions. *Complete as many entries as needed to report all applicable employers.*

a Name of contributing employer
b EIN
c Dollar amount contributed by employer
d Date collective bargaining agreement expires *(If employer contributes under more than one collective bargaining agreement, check box* ☐ *and see instructions regarding required attachment. Otherwise, enter the applicable date.)*
e Contribution rate information *(If more than one rate applies, check this box* ☐ *and see instructions regarding required attachment. Otherwise, complete Lines 12e(1) and 12e(2).)*

(1) Contribution rate (in dollars and cents)
(2) Base unit measure:

☐ Hourly
☐ Weekly
☐ Unit of production
☐ Other (specify)

13 [Current Line 14] Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant for:

a The current year
b The plan year immediately preceding the current plan year
c The second preceding plan year

14. [Current Line 15] Enter the ratio of the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the current plan year to:

a The corresponding number for the plan year immediately preceding the current plan year
b The corresponding number for the second preceding plan year

15 [Current Line 16] Information with respect to any employers who withdrew from the plan during the preceding plan year:

a Enter the number of employers who withdrew during the preceding plan year:
b If Line 15a is greater than 0, enter the aggregate amount of withdrawal liability assessed or estimated to be assessed against such withdrawn employers.

16 [Current Line 17] If assets and liabilities from another plan have been transferred to or merged with this plan during the plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

Part V [Current Part VI] Additional information for Single-Employer and Multiemployer Defined Benefit Pension Plans

17 [Current Line 18] If any liabilities to participants or their beneficiaries under the plan as of the end of the plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under two or more pension plans as of immediately before such plan year, check box and see instructions regarding supplemental information to be included as an attachment. ☐

18 [Current Line 19] If the total number of participants is 1,000 or more, complete Lines (a) through (c)

a Enter the percentage of plan assets held as:

Stock:
Investment-Grade Debt:
High-Yield Debt:
Real Estate:
Other:

b Provide the average duration of the combined investment-grade and high-yield debt:

☐ 0–3 years
☐ 3–6 years
☐ 6–9 years
☐ 9–12 years
☐ 12–15 years
☐ 15–18 years
☐ 18–21 years
☐ 21 years or more

c What duration measure was used to calculate Line 18(b)?

☐ Effective duration ☐ Macaulay duration ☐ Modified duration ☐ Other (specify)

Part VI [New Part; all of these questions on IRS List for 2015 changes and published in draft on the IRS's Form 5500–SUP]

Nondiscrimination and Coverage

19a If this is a section 401(k) plan, check the correct box to indicate how the plan is intended to satisfy the nondiscrimination requirements for employee deferrals and employer matching contributions (as applicable) under section 401(k)(3) and 401(m)(2)?

☐ Design-based safe harbor method ☐ ADP/ACP test ☐ Both

b If the ADP test is used, did the plan perform ADP testing for the plan year using the "current year testing method" for nonhighly compensated employees (Treas. Reg. sections 1.401(k)–2(a)(2)(ii) ☐ Yes ☐ No

20a Check the box to indicate the method used by the plan to satisfy the coverage requirements under section 410(b): ☐ ratio percentage test ☐ average benefit test ☐ N/A

b Does the plan satisfy the coverage and nondiscrimination tests of sections 410(b) and 401(a)(4) by combining this plan with any other plans under the permissive aggregation rules?

☐ Yes ☐ No

21 If this is a defined benefit pension plan, does the plan comply with Code section 401(a)(26) participation requirements?

☐ Yes ☐ No

Part VII [New Part/New Questions]

Participation Information in Defined Contribution Pension Plans (Only defined contribution pension plans need to complete this Part.)

22a Were employees participating in the plan eligible to receive employer contributions even if they did not make any elective deferrals?

☐ Yes ☐ No If "Yes," answer Line 22b.

22b Check the appropriate box to indicate how the employer's contribution is calculated and enter the percent or dollar amount or other formula:

☐ % of a participant's compensation (provide percentage)
☐ $ per participant (provide amount)
☐ Other (specify)

23a Does the plan provide for employer matching contributions contingent on employee elective deferrals? ☐ Yes ☐ No If "Yes," answer Line 23b–d.

23b Check the appropriate box and enter the percentage, amount or formula to indicate the minimum elective deferrals necessary to qualify for an employer matching contribution (if there is no minimum, check "other" and enter "none"):

☐ % of a participant's contribution up to a limit (provide percentage)
☐ $ per participant (provide amount)
☐ Other (specify)

23c Check the appropriate box and enter the percentage, amount or other formula to indicate the maximum employer matching contribution under the terms of the plan.

☐ % of a participant's compensation (provide percentage)
☐ $ per participant (provide amount)
☐ Other (Specify)

23d Enter the number of participants making sufficient elective deferrals to receive the maximum employer match.

24a Does the plan have automatic enrollment? ☐ Yes ☐ No If "Yes," answer Lines 24b(1)–(3).

24b (1) Enter the default elective deferral as a percentage of a participant's compensation in the first year after a participant is automatically enrolled?

(2) Does the plan have automatic escalation, assuming a participant has made no active elections? ☐ Yes ☐ No If "Yes," enter the maximum elective deferral as a percentage of a participant's compensation.

(3) Enter the number of participants that have not made any investment decisions and remain in the plan's default investment account(s):

25 Enter the number of participants making catch-up contributions.

Schedule SB—Single-Employer Defined Benefit Plan Actuarial Information

[Current header and identifying information] For calendar plan year 20XX or fiscal plan year beginning DD/MM/20XX and ending DD/MM/20XX+1

A Name of Plan
B Three-digit plan number (PN)
C Plan sponsor's name as shown in Line 2a of the Form 5500 or 5500–SF
D Employer Identification Number (EIN)
E Type of plan: ☐ Single ☐ Multiple-A ☐ Multiple-B
F Prior year plan size: ☐ 100 or fewer ☐ 101–500 ☐ More than 500

Part I Basic Information

1 [Current] Enter the valuation date:
2 [Current] Assets:
a Market value
b Actuarial value

3 [Current] Funding target/participant count breakdown

	(1) Number of participants	**(2)** Vested Funding Target	**(3)** Total Funding Target
a For retired participants and beneficiaries receiving payment			
b For terminated vested participants			
c For active participants			
d Total			

4 Current, except that allocation of total must be completed by participant groups and formatting (1), (2), etc. changed to conform to other tables on the form.] If the plan is in at-risk status, check the box and complete Lines (a) through (d) ☐

	(1) Funding target disregarding prescribed at-risk assumptions	**(2)** Funding target reflecting at-risk assumptions, but disregarding transition rule for plans that have been in at-risk status for fewer than five consecutive years and disregarding loading factor
a For retired participants and beneficiaries receiving payment		
b For terminated vested Participants		
c For active participants		
Total		

5 **[Current]** Effective interest rate ____%

6 Target normal cost **[Current, except allocation of plan-related expenses separated from the target normal cost.].**

a **[New allocation]** Target normal cost (without plan expenses)

b **[New allocation]** Plan-related expenses

c Total **[Reflects current Line 6]**

Part II Beginning of Year Carryover and Prefunding Balances

	(a) Carryover balance	**(b)** Prefunding balance
7 [Current] Balance at beginning of prior year after applicable adjustments (Line 13 from prior year)		
8 [Current; reference to line item updated to reflect renumbered questions.] Portion elected for use to offset prior year's funding requirement **[Current Line 35]** (Line 39 from prior year)		
9 [Current] Amount remaining (Line 7 minus Line 8).		
10 [Current] Interest on Line 9 using prior year's actual return of __%.		
11 [Current; references to line items updated to reflect renumbered questions.] Prior year's excess contributions to be added to prefunding balance:	▨	
a Present value of excess contributions **[Current Line 38a]** (Line 42a from prior year)	▨	
b(1) Interest on the excess, if any, of **[Current Lines 38a and 38b]** Line 42a over Line 42b from prior year Schedule SB, using prior year's effective interest rate of __%	▨	
b(2) Interest on **[Current Line 38b]** Line 42b from prior year Schedule SB, using prior years actual return	▨	
c Total available at the beginning of current plan year to add to prefunding balance	▨	
d Portion of (c) to be added to prefunding balance	▨	
12 [Current] Other reductions in balances due to elections or deemed elections		
13 [Current] Balance at the beginning of the current year (Line 9 + Line 10 + Line 11d – Line 12)		

14 [Current instructions for Line 7 with minor rewording, checkbox added] If Line 7 does not equal Line 13 from the prior year, provide an explanation in this line and check here ☐

15 [Current instructions for Line 8 with minor rewording, checkbox added] If Line 8 reflects a late election to apply the balances to quarterly installments, provide an explanation in this line and check here ☐

16 [Current instructions for Line 9 with minor rewording, checkbox added] If Line 9 has been adjusted so that it does not match the amount for the pre-effective date plan year, provide an explanation in this line and check here ☐

Part III Funding Percentages

17 [Current Line 14] Funding target attainment percentage ____%

18 Adjusted funding target attainment

a [Current Line 15] Adjusted funding target attainment percentage ____%

b [Current instructions for Line 15 with minor rewording, checkbox added] If an attachment is included reconciling differences between valuation results and amounts used to calculate the AFTAP, check here ☐

19 [Current Line 16] Prior year's funding percentage for purposes of determining whether carryover/prefunding balances may be used to reduce current year's funding requirement ____%

20 [Current Line 17] If the current value of the assets of the plan is less than 70 percent of the funding target, enter such percentage ____%

Part IV Contributions and Liquidity Shortfalls

21 [Current line 18 and line 19 attachment] Contributions made to the plan by employer(s) and employees:

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
Date (MM/DD/YYYY)	Amount paid by employer(s)	Plan year to which contribution applies	Interest rate to adjust employer contributions	Number of days to discount employer contributions	Discounted/increased employer contributions at valuation date	Allocation to contributions in line 22	Amount paid by employees
Total							

22 [Current Line 19] Discounted employer contributions—see instructions for small plans with a valuation date after the beginning of the year:

a Contributions allocated toward unpaid minimum required contributions for prior years

b Contributions made to avoid restrictions adjusted to valuation date

c Contributions allocated toward minimum required contribution for current year adjusted to valuation date

23 [Current Line 20, except new checkbox added to Line 23c.] Quarterly contributions and liquidity shortfalls:

a Did the plan have a "funding shortfall" for the prior year? ☐ Yes ☐ No

b If Line 23a is "Yes," were required quarterly installments for the current year made in a timely manner? ☐ Yes ☐ No

c [Minor rewording of the question and new check box added] If Line 23a is "Yes," see instructions. If a liquidity requirement certification is attached, complete the following table as applicable and check here ☐:

Liquidity shortfalls as of the end of quarter of this plan year

(1) 1st	(2) 2nd	(3) 3rd	(4) 4th

Part V Assumptions Used to Determine Funding Target and Target Normal Cost —

24 [Current Line 21] Discount rate:

a Segment rates:

1st segment: %	2nd segment: %	3rd segment: %	☐ N/A, full yield curve used
%	%	%	

b Applicable month (enter code)

25 [Current Line 22] Weighted average retirement age

26 [Current Line 23] Mortality Table(s):

26a Mortality table(s) (see instructions) ☐ Prescribed—combined ☐ Prescribed separate ☐ Substitute

26b [Attachment to current Line 23, new checkbox added.] If more than one mortality table was used, provide an explanation in this line describing the mortality table used for each population and the size of that population and check here. ☐

26c [Attachment to current Line 23, new checkbox added.] If substitute mortality tables are used, provide in this line of a summary of plan populations for which substitute mortality tables are used, plan populations for which the prescribed tables are used, and the last plan year for which IRS approval of the substitute mortality tables applies and check here ☐.

Part VI Miscellaneous Items

27 [Current Line 24] Has a change been made in the non-prescribed actuarial assumptions for the current plan year? If "Yes," see instructions regarding required attachment ☐ Yes ☐ No.

28 [Current Line 25, minor rewording, new checkbox added.] If a method change has been made for the current plan year, provide a description of the change in this line and check here. ☐

29 Participant schedules

29a(i) [Current Line 26] Is the plan required to provide a Schedule of Active Participant Data? (See instructions) ☐ Yes ☐ No

a(ii) [Current Line 26 instructions moved to the face of the form] If 29a(i) is "Yes," complete the schedule below and items 29a(iii) and (iv). If the plan is hard frozen and average annual accrued benefit data is entered instead of average compensation data, check this box ☐ (see instructions)

Line 29a(ii) - Schedule of Active Participant Data

	Credited Service								
Attained Age	Under 1			1 to 4			40 & up		
		Average			Average			Average	
	No.	Comp.	Cash. Bal.	No.	Comp.	Cash. Bal.	No.	Comp.	Cash. Bal.
Under 25									
25 to 29									
Etc.									
70 & up									

a(iii) [New] Average age of active participants as of the valuation date

a(iv) [New] Average credited service of active participants as of the valuation date

29b(i) [New] Is the plan required to provide a Schedule of Retired Participants and Beneficiaries Receiving Payment Data?(See instructions) ☐ Yes ☐ No.

b(ii) [New] If 29b(i) is "Yes," complete the schedule below and items 29b(iii) and b(iv).

Schedule of Retired Participants and Beneficiaries Receiving Payment Data

Attained Age	Number	Average Annual In-Pay Benefit Amount
Under 55		
55 to 59		
Etc.		
90 and up		

b(iii) [New] Average Age for Retired Participants and Beneficiaries as of the valuation date

b(iv) [New] Average Annual In-Pay Benefit for Retired Participants and Beneficiaries as of the valuation date

29c(i) [New] Is the plan required to provide a Schedule of Terminated Vested Participant Data? (See the instructions) ☐ Yes ☐ No

c(ii) [New] If c(i)(a) is "Yes," complete the schedule below and items c(iii) through c(vi).

Schedule of Terminated Vested Participant Data

Attained Age	Number	Average Annual In-Pay Benefit Amount
Under 25		
25 to 29		
Etc.		
70 and up		

c(iii) [New] Average age of terminated vested participants as of the valuation date

c(iv) [New] Average annual benefit of terminated vested participants as of the valuation date

c(v) [New] Assumed form of payment shown

c(vi) [New] Assumed age of first payment for benefits shown

30a [New] Is the plan required to provide a projection of expected benefit payments? (see instructions) ☐ Yes ☐ No

b [New] If "Yes," complete the schedule below:

Plan Year	Schedule of Projection of Expected Annual Benefit Payments
Current plan year	
Current plan year plus 1	
Etc.	
Current plan year plus 9	

31 [Current Line 27] If the plan is subject to the alternative funding rules, enter applicable code and see instructions regarding attachment

Part VII Reconciliation of Unpaid Minimum Required Contributions For Prior Years

32 [Current Line 28] Unpaid minimum required contributions for all prior years

33 [Current Line 29; reference updated] Discounted employer contributions allocated toward unpaid minimum required contributions from prior years **[Current Line 19a]** (Line 22a)

34 [Current Line 30; references updated] Remaining amount of unpaid minimum required contributions **[Current Line 28 minus Line 29]** (Line 32 minus Line 33)

Part VIII Minimum Required Contribution For Current Year

35 [Current Line 31] Target normal cost and excess assets (see instructions):

a [Current Line 6] Target normal cost (Line 6c)

b [Current] Excess assets, if applicable, but not greater than Line 35a

36 [Current Line 32]

Amortization Installments	Outstanding balance	Installment
a Net shortfall amortization installment		
b Waiver amortization installment		

[Current attachment] Schedule of Amortization Bases

Amortization installments				
(i) Type of base	(ii) Present value of remaining installments	(iii) Valuation date base was established	(iv) Years remaining in amortization period	(v) Current year installment
Total				

37 [Current Line 33] If a waiver has been approved for this plan year, enter the date of the ruling letter granting approval (Month/Day/Year) and the waived amount

38 [Current Line 34; reflects renumbering of references] Total funding requirement before reflecting carryover/prefunding balances **[Current Lines 31a − 31b + 32a + 32b − 33]** (Lines 35a − 35b + 36a + 36b − 37)

	Carryover balance	Prefunding balance	Total balance
39 [Current Line 35] Balances elected for use to offset funding requirement.			

40 [Current Line 36; reflects renumbering of references] Additional cash requirement **[Current Line 34 minus Line 25]** (Line 38 minus Line 39)

41 [Current Line 37; reflects renumbering of reference] Contributions allocated toward minimum required contribution for current year adjusted to valuation date **[Current Line 19c]** (Line 22c)

42 [Current Line 38; reflects renumbering of references] Present value of excess contributions for current year (see instructions)

a Total **[Current Line 37 over Line 36]** (excess, if any, of Line 41 over Line 40)

b Portion included in **[Current Line 38a]** Line 42a attributable to use of prefunding and funding standard carryover balances

43 [Current Line 39; reflects renumbering of references] Unpaid minimum required contribution for current year **[Current Line 36 over Line 37]** (excess, if any, of Line 40 over Line 41)

44 [Current Line 40; reflects renumbering of references] Unpaid minimum required contributions for all years

Part IX Pension Funding Under Pension Relief Act of 2010 (See Instructions)

45 [Current Line 41; reflects renumbering of references] If an election was made to use PRA 2010 funding relief for this plan:

a Schedule elected ☐ 2 plus 7 years ☐ 15 years

b Eligible plan year(s) for which the election in [Current Line 41a] Line 45a was made ☐ 2008 ☐ 2009 ☐ 2010 ☐ 2011

46 [Current Line 42] Amount of acceleration adjustment

47 [Current Line 43] Excess installment acceleration amount to be carried over to future plan years

Statement by Enrolled Actuary—Current—except that information previously reported on an attachment per the instructions will be reported on the Schedule.

To the best of my knowledge, the information supplied in this schedule and accompanying schedules, statements, and attachments, if any, is complete and accurate. Each prescribed assumption was applied in accordance with applicable law and regulations. In my opinion, each other assumption is reasonable (taking into account the experience of the plan and reasonable expectations) and such other assumptions, in combination, offer my best estimate of anticipated experience under the plan.

Signature of actuary
Date
Type or print name of actuary
Most recent enrollment number
Firm name
Telephone number (including area code)
Address of firm

If the actuary has not fully reflected any regulation or ruling promulgated under the statute in completing this schedule, provide the information requested in the instructions in this line and check here ☐

APPENDIX B

20XX Instructions for Form 5500 Annual Return/Report of Employee Benefit Plan

Code section references are to the Internal Revenue Code unless otherwise noted. ERISA refers to the Employee Retirement Income Security Act of 1974.

EFAST2 Processing System

Under the computerized ERISA Filing Acceptance System (EFAST2), you must electronically file your 20**XX** Form 5500. Your Form 5500 entries will be initially screened electronically. For more information, see the instructions for *Electronic Filing Requirement* and the EFAST2 Web site at *www.efast.dol.gov*. You cannot file a paper Form 5500 Annual Return/Report by mail or other delivery service.

About the Form 5500

The Form 5500, Annual Return/Report of Employee Benefit Plan, including all required schedules and attachments (Form

5500 Annual Return/Report), is used to report information concerning employee benefit plans and Direct Filing Entities (DFEs). Any administrator or sponsor of an employee benefit plan subject to ERISA must file information about each benefit plan every year (pursuant to Code section 6058 and ERISA sections 104 and 4065). Some plans participate in certain trusts, accounts, and other investment arrangements that file the Form 5500 Annual Return/Report as DFEs. See *Who Must File and When To File.*

The Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated certain returns and report forms to reduce the filing burden for plan administrators and employers. Employers and administrators who comply with the instructions for the Form 5500 generally will satisfy the annual reporting requirements for the DOL under Title I of ERISA and for PBGC under Title IV of ERISA and for the IRS under Code sections 6057(b), 6058, and 6059.

Defined contribution and defined benefit pension plans may have to file additional information with the IRS, including Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, and Form 8955–SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits. See *www.irs.gov* for more information.

Plans covered by the PBGC have special additional requirements, including premiums and reporting certain transactions directly with that agency. See PBGC's Web site (*www.pbgc.gov/practitioners/*) for information on premium payments and reporting and disclosure.

Each Form 5500 must accurately reflect the characteristics and operations of the plan or arrangement being reported. The requirements for completing the Form 5500 will vary according to the type of plan or arrangement. The section *What To File* summarizes what information must be reported for different types of plans and arrangements. The *Quick Reference Charts of Form 5500, Schedules and Attachments for (1) Pension Plans; (2) Direct Filing Entities (Other than GIAs); (3) Group Health Plans (and GIAs Providing Group Health Benefits); and (4) Welfare Plans Other Than Group Health,* at the end of these instructions, give a brief guide to the annual return/report requirements of the 20XX Form 5500 for the various types of plans and other entities filing a Form 5500 Annual Return/Report. See also the *"Troubleshooters Guide to Filing the ERISA Annual Reports"* available on *www.dol.gov/ebsa,* which is intended to help filers comply with the Form 5500 and Form 5500–SF annual reporting requirements and avoid common reporting errors.

The Form 5500 must be filed electronically as noted above. See Section 3—Electronic Filing Requirement and the EFAST2 Web site at *www.efast.dol.gov.* Your Form 5500 entries will be initially screened electronically. Your entries must satisfy this screening for your filing to be received. Once received, your form may be subject to further detailed review, and your filing may be rejected based upon this further review.

ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. **See *Penalties.***

Annual reports filed under Title I of ERISA must be made available by plan administrators to plan participants and beneficiaries and by the DOL to the public pursuant to ERISA sections 104 and 106. Pursuant to Section 504 of the Pension Protection Act of 2006 (PPA) Pub. L. 109–280, this availability for defined benefit pension plans must include the posting of the Form 5500, Schedule SB or MB, and all of the Schedule SB or MB attachments on any plan sponsor intranet Web site (or Web site maintained by the plan administrator on behalf of the plan sponsor) that is used for the purpose of communicating with employees and not the public. Section 504 also requires DOL to display such information on DOL's Web site within 90 days after the filing of the plan's annual return/report. To see plan year 2009 and later forms, including actuarial information, see *www.dol.gov/ebsa.* See *www.dol.gov/ebsa/actuarialsearch.html* for plan year 2008 and short plan year 2009 actuarial information filed under the previous paper-based system.

Changes to Note

[The instructions for the year in which the revisions are implemented will include such items in the "Changes to Note" section.]

Table of Contents

[The Instructions will continue include a Table of Contents in substantially the same format as the existing Table of Contents, updated as required.]

How To Get Assistance

If you need help completing this form or have related questions, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) (toll-free) or access the EFAST2 or IRS Web sites. The EFAST2 Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

You can access the EFAST2 Web site 24 hours a day, 7 days a week at *www.efast.dol.gov* to:

- File the Form 5500–SF or Form 5500, and any needed schedules or attachments.
- Check on the status of a filing you submitted.
- View filings posted by EFAST2.
- Register for electronic credentials to sign or submit filings.
- View forms and related instructions.
- Get information regarding EFAST2, including approved software vendors.
- See answers to frequently asked questions about the Form 5500–SF, the Form 5500 and its schedules, and EFAST2.
- Access the main EBSA and DOL Web sites for news, regulations, and publications.

You can access the IRS Web site 24 hours a day, 7 days a week at *www.irs.gov* to:

- View forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send comments or request help by email.
- Sign up to receive local and national tax news by email.

You can order other IRS forms and publications at the IRS Web site at *www.irs.gov/orderforms.* You can order EBSA publications by calling **1–866–444–EBSA** (3272).

Section 1: Who Must File

A return/report must be filed every year for every pension benefit plan, welfare benefit plan, and for every entity that files as a DFE as specified below (pursuant to Code section 6058 and ERISA sections 104 and 4065). If you are a small plan (generally under 100 participants at the beginning of the plan year), that does **not** provide group health benefits, you may be eligible to file the Form 5500–SF instead of the Form 5500. For more information, see the instructions to the Form 5500–SF.

Pension Benefit Plan

All pension benefit plans covered by ERISA must file an annual return/report except as provided in this section. The return/report must be filed whether or not the plan is "tax-qualified," benefits no longer accrue, contributions were not made this plan year, or contributions are no longer made. Pension benefit plans required to file include both defined benefit plans and defined contribution plans.

The following are among the pension benefit plans for which a return/report must be filed.

1. Profit-sharing plans, stock bonus plans, money purchase plans, 401(k) plans, etc.
2. 403(b) plans subject to Title I of ERISA. For more information regarding filing requirements for these annuity arrangements under Code section 403(b)(1) and custodial accounts established under Code section 403(b)(7) for regulated investment company stock, see Field Assistance Bulletins 2009–02 and 2010–01.
3. Individual retirement accounts (IRAs) established by an employer under Code section 408(c).
4. Church pension plans electing coverage under Code section 410(d).
5. Pension benefit plans that cover residents of Puerto Rico, the U.S. Virgin Islands, Guam, Wake Island, or American Samoa. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.
6. Plans that satisfy the Actual Deferral Percentage requirements of Code section 401(k)(3)(A)(ii) by adopting the "SIMPLE" provisions of section 401(k)(11).

See *What To File* for more information about what must be completed for pension plans.

Do Not File a Form 5500 Annual Return/Report for a Pension Benefit Plan That Is Any of the Following:

1. An unfunded excess benefit plan. See ERISA section 4(b)(5).
2. An annuity or custodial account arrangement under Code sections 403(b)(1) or (7) not established or maintained by an employer as described in DOL Regulation 29 CFR 2510.3–2(f).

3. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).

4. A simplified employee pension (SEP) or a salary reduction SEP described in Code section 408(k) that conforms to the alternative method of compliance in 29 CFR 2520.104–48 or 2520.104–49. A SEP is a pension plan that meets certain minimum qualifications regarding eligibility and employer contributions.

5. A church pension benefit plan not electing coverage under Code section 410(d).

6. A pension plan that is maintained outside the United States primarily for the benefit of persons substantially all of whom are nonresident aliens. However, certain foreign plans are required to file the Form 5500–EZ with the IRS or may file the Form 5500–SF electronically with EFAST2. See the instructions to the **Form 5500–EZ** for the filing requirements. For more information, go to *www.irs.gov/ep* or call 1–877–829–5500.

7. An unfunded pension plan for a select group of management or highly compensated employees that meets the requirements of 29 CFR 2520.104–23, including timely filing of a registration statement with the DOL.

8. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–27.

9. An individual retirement account or annuity not considered a pension plan under 29 CFR 2510.3–2(d).

10. A governmental plan.

11. A ''one-participant plan,'' as defined below. However, certain one-participant plans are required to file the **Form 5500–EZ,** Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan with the IRS or, may file the **Form 5500–SF,** Short Form Annual Return/Report of Employee Benefit Plan, electronically with EFAST2. For this purpose, a ''one-participant plan'' is:

a. A pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or

b. A pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses.

See the instructions to the Form 5500–EZ and the Form 5500–SF for filing requirements. For more information, go to *www.irs.gov/ep* or call 1–877–829–5500.

Welfare Benefit Plan

Plans that Provide Health Benefits (Group Health Plans)

All employee benefit plans covered by Title I of ERISA that provide group health benefits consisting of medical care as defined in section 733(a)(2) of ERISA are required to file a Form 5500 Annual Return/Report, unless specifically exempt below, regardless of the plan size or type of funding.

MEWA Reminders: The administrator of a group health plan required to file a Form M–1, *Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs),* must also file the Form 5500 Annual Return/Report for the group health plan. The administrator of a group health plan that provides benefits wholly or partially through a Multiple Employer Welfare Arrangement (MEWA) as defined in ERISA section 3(40) must file a Form 5500 Annual Return/Report, unless the plan is part of a Group Insurance Arrangement (GIA) that files a Form 5500 Annual Return/Report as a DFE on behalf of all the participating plans.

Welfare Benefit Plans Other Than Group Health Plans

All welfare benefit plans covered by ERISA that do not provide health benefits consisting of medical care as defined in section 733(a)(2) of ERISA are required to file a Form 5500, except as provided in this section. Welfare benefits other than group health include disability, life insurance, apprenticeship and training, scholarship funds, severance pay, etc. See *What To File* for more information.

[CAUTION] *If the plan provides both health benefits and other types of benefits, then it is subject to the filing requirements for a plan that provides health benefits, including the requirement that all such plans file the Form 5500 regardless of size.*

Do Not File a Form 5500 Annual Return/Report for a Welfare Benefit Plan That Is Any of the Following:

1. A welfare benefit plan that does not provide health benefits and that covered fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded, as specified in 29 CFR 2520.104–20.

Note. To determine whether the plan covers fewer than 100 participants for purposes of this filing exemption for insured, unfunded and combination insured/unfunded welfare plans that do not provide health benefits, see instructions for Lines 6 and 7 on counting participants in a welfare plan. *See also* 29 CFR 2510.3–3(d).

a. An *unfunded welfare benefit plan* has its benefits paid as needed directly from the general assets of the employer or employee organization that sponsors the plan. Plans that are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the year. A welfare benefit plan with employee contributions that is associated with a cafeteria plan under Code section 125 may be treated for annual reporting purposes as an unfunded welfare plan if it meets the requirements of DOL Technical Release 92–01, 57 FR 23272 (June 2, 1992) and 58 FR 45359 (Aug. 27, 1993). The mere receipt of COBRA contributions or other after-tax participant contributions (*e.g.,* retiree contributions) by a cafeteria plan would not by itself affect the availability of the relief provided for cafeteria plans that otherwise meet the requirements of DOL Technical Release 92–01. See 61 FR 41220, 41222–23 (Aug. 7, 1996).

b. A *fully insured welfare benefit plan* has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or employee organization forwards within three (3) months of receipt). The insurance contracts or policies discussed above must be issued by an insurance company or similar organization that is qualified to do business in any state.

c. A *combination unfunded/insured welfare benefit plan* has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare benefit plan that provides disability benefits as in **a** above and life insurance benefits as in **b** above. See 29 CFR 2520.104–20.

2. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

3. A governmental plan.

4. An unfunded or insured welfare benefit plan maintained for a select group of management or highly compensated employees, which meets the requirements of 29 CFR 2520.104–24.

5. An employee benefit plan maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

6. A group health plan or other welfare benefit plan that participates in a group insurance arrangement (GIA) that files a Form 5500 Annual Return/Report on behalf of the group health plan or other welfare benefit plan as specified in 29 CFR 2520.103–2. See 29 CFR 2520.104–43.

7. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104–22.

8. An unfunded dues financed welfare benefit plan that does not provide health benefits exempted by 29 CFR 2520.104–26.

9. A church plan under ERISA section 3(33).

10. A welfare benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated, or that covers only the partners or the partners and the partners' spouses. See 29 CFR 2510.3–3(b).

Direct Filing Entity (DFE)

Some plans participate in certain trusts, accounts, and other investment arrangements that file the Form 5500 Annual Return/Report as a DFE in accordance with the *Direct Filing Entity (DFE) Filing Requirements.* A Form 5500 Annual Return/Report must be filed for a master trust. A Form 5500 Annual Return/Report is not required but may be filed for a common/collective trust (CCT), a pooled separate account (PSA), an investment entity that hold plan assets permitted under 29 CFR 2520.103–12(103–12 IE), or a group insurance arrangement (GIA). Plans that participate in CCTs, PSAs, 103–12 IEs, or GIAs that file as DFEs, however, generally are eligible for certain annual reporting relief. For reporting purposes, a CCT, PSA, 103–12

IE, or GIA is not considered a DFE unless a Form 5500 and all required attachments are filed for it in accordance with the *Direct Filing Entity (DFE) Filing Requirements.*

Note. Special requirements also apply to Schedules D and H attached to the Form 5500 filed by plans participating in master trusts, CCTs, PSAs, and 103–12 IEs. See these schedules and their instructions.

Section 2: When To File

Plans and GIAs. File 20**XX** returns/reports for plan and GIA years that began in 20**XX**. All required forms, schedules, statements, and attachments must be filed by the last day of the 7th calendar month after the end of the plan or GIA year (not to exceed 12 months in length) that began in 20**XX**. If the plan or GIA year differs from the 20**XX** calendar year, fill in the fiscal year beginning and ending dates in the space provided.

Short Years. For a plan year of less than 12 months (short plan year), file the form and applicable schedules by the last day of the 7th calendar month after the short plan year ends or by the extended due date, if filing under an authorized extension of time. Fill in the short plan year beginning and ending dates in the space provided and check the appropriate box in Part I, Line B, of the Form 5500. For purposes of this return/report, the short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also see the instructions for *Final Return/Report* to determine if "the final return/report" box in Line B should be checked.

DFEs other than GIAs. File 20**XX** returns/reports no later than 9½ months after the end of the DFE year that ended in 20**XX**. A Form 5500 Annual Return/Report filed for a DFE must report information for the DFE year (not to exceed 12 months in length). If the DFE year differs from the 20**XX** calendar year, fill in the fiscal year beginning and ending dates in the space provided.

Notes. *(1)* If the filing due date falls on a Saturday, Sunday, or Federal holiday, the return/report may be filed on the next day that is not a Saturday, Sunday, or Federal holiday. *(2)* If the 20**XX+1** Form 5500 is not available before the plan or DFE filing is due, use the 20**XX** Form 5500 and enter the 20**XX+1** fiscal year beginning and ending dates on the line provided at the top of the form.

Extension of Time To File

Using Form 5558

A plan or GIA may obtain a one-time extension of time to file a Form 5500 Annual Return/Report (up to 2½ months) by filing IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, on or before the normal due date (not including any extensions) of the return/report. **You MUST file Form 5558 with the IRS.** Approved copies of the Form 5558 will not be returned to the filer. A copy of the completed extension request must, however, be retained with the filer's records.

File Form 5558 with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201–0045.

Using Extension of Time To File Federal Income Tax Return

An automatic extension of time to file the Form 5500 Annual Return/Report until the due date of the federal income tax return of the employer will be granted if all of the following conditions are met:

(1) the plan year and the employer's tax year are the same;

(2) the employer has been granted an extension of time to file its federal income tax return to a date later than the normal due date for filing the Form 5500 Annual Return/Report; and

(3) a copy of the application for extension of time to file the federal income tax return is maintained with the filer's records. An extension granted by using this automatic extension procedure CANNOT be extended further by filing a Form 5558, nor can it be extended beyond a total of 9½ months beyond the close of the plan year.

Note. An extension of time to file the Form 5500 Annual Return/Report does not operate as an extension of time to file a Form 5500 Annual Return/Report filed for a DFE (other than a GIA), to file PBGC premiums or annual financial and actuarial reports (if required by section 4010 of ERISA) or to file the Form 8955–SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits) (required to be filed with the IRS under Code section 6057(a)).

Other Extensions of Time

The IRS, DOL, and PBGC may announce special extensions of time under certain circumstances, such as extensions for Presidentially-declared disasters or for service in, or in support of, the Armed Forces of the United States in a combat zone. See *www.irs.gov, www.efast.dol.gov*, and *www.pbgc.gov/practitioners* for announcements regarding such special extensions. If you are relying on one of these announced special extensions, check the appropriate box on Form 5500, Part I, Line D, and enter a description of the announced authority for the extension.

Delinquent Filer Voluntary Compliance (DFVC) Program

The DFVC Program facilitates voluntary compliance by plan administrators who are delinquent in filing annual reports under Title I of ERISA by permitting administrators to pay reduced civil penalties for voluntarily complying with their DOL annual reporting obligations. If the Form 5500 is being filed under the DFVC Program, check the appropriate box in Form 5500, Part I, Line D, to indicate that the Form 5500 is being filed under the DFVC Program. See *www.efast.dol.gov* for additional information.

Plan administrators are reminded that they can use the online calculator available at *www.dol.gov/ebsa/calculator/dfvcpmain.html* to compute the penalties due under the program. Payments under the DFVC Program also may be submitted electronically. For information on how to pay DFVC Program payments online, go to *www.dol.gov/ebsa.*

[CAUTION] *Filers who wish to participate in the DFVC Program for plan years prior to 20**XX–3** must use the 20**XX** version of Form 5500 or, if applicable, Form 5500–SF. Use the Form 5500 Version Selection Tool available at www.efast.dol.gov for further information.*

Section 3: Electronic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST2), you must file your 20**XX** Form 5500 Annual Return/Report electronically. You may file online using EFAST2's web-based filing system or you may file through an EFAST2-approved vendor. Detailed information on electronic filing is available at *www.efast.dol.gov*. For telephone assistance, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278). The EFAST2 Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

[CAUTION] *Annual returns/reports filed under Title I of ERISA must be made available by plan administrators to plan participants and beneficiaries and by the DOL to the public pursuant to ERISA sections 104 and 106. Even though the Form 5500 Annual Return/Report must be filed electronically, the administrator must keep a copy of the Form 5500, including schedules and attachments, with all required signatures on file as part of the plan's records and must make a paper copy available upon request to participants, beneficiaries, and the DOL as required by section 104 of ERISA and 29 CFR 2520.103–1. Filers may use electronic media for record maintenance and retention, so long as they meet the applicable requirements.*

Generally, questions on the Form 5500 relate to the plan year entered at the top of the first page of the form. Therefore, answer all questions on the 20**XX** Form 5500 with respect to the 20**XX** plan year unless otherwise explicitly stated in the instructions or on the form itself.

Your entries must be in the proper format in order for the EFAST2 system to process your filing. For example, if a question requires you to enter a dollar amount, you cannot enter a word. Your software will not let you submit your return/report unless all entries are in the proper format. To reduce the possibility of correspondence and penalties:

- Complete all lines on the Form 5500 unless otherwise specified. Also complete and attach, as required, applicable schedules and attachments.
- Do not enter "N/A" or "Not Applicable" on the Form 5500 Annual Return/Report unless specifically permitted. "Yes" or "No" questions on the forms and schedules cannot be left blank, unless specifically permitted. Answer either "Yes" or "No," but not both.

All schedules and attachments to the Form 5500 must be properly identified, and must include the name of the plan or DFE, EIN, and plan number (PN) as found on the Form 5500, lines, 1a, 2b, and 1b, respectively. At the top of each attachment, indicate the schedule and line, if any to which the attachment relates.

Check your return/report for errors before signing or submitting it to EFAST2. Your filing software or, if you are using it, the EFAST2 web-based filing system will allow you to check your return/report for errors. If, after reasonable attempts to correct your filing to eliminate any identified problem or problems, you are unable to address them, or you believe that you are receiving the message in error, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) or contact the service provider you used to help prepare and file your annual return/report.

Once you complete the return/report and finish the electronic signature process, you can electronically submit it to EFAST2. When you electronically submit your return/report, EFAST2 is designed to immediately notify you if your submission was received and whether the return/report is ready to be processed by EFAST2. If EFAST2 does not notify you that your submission was successfully received and is ready to be processed, you will need to take steps to correct the problem or you may be deemed a non-filer subject to penalties from DOL, IRS, and/or PBGC.

Once EFAST2 receives your return/report, the EFAST2 system should be able to provide a filing status within 20 minutes. The person submitting the filing should check back into the EFAST2 system to determine the filing status of your return/report. The filing status message will include a list of filing errors or warnings that EFAST2 may have identified in your filing. If EFAST2 did not identify any filing errors or warnings, EFAST2 will show the filing status of your return/report as "Filing_Received." Persons other than the submitter can check whether the filing was received by the system by calling the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) and using the automated telephone system.

To reduce the possibility of correspondence and penalties from the DOL, IRS, and/or PBGC, you should do the following: (1) Before submitting your return/report to EFAST2, check it for errors, and (2) after you have submitted it to EFAST2, verify that you have received a filing status of "Filing Received" and attempt to correct and resolve any errors or warnings listed in the status report. *For more information on whether the filing must be corrected and resubmitted or corrected as an amended filing, go to the EFAST2 Web site at www.efast.dol.gov, Frequently Asked Questions (FAQs), or call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278).*

Note. Even after being received by the EFAST2 system, your return/report filing may be subject to further detailed review by DOL, IRS, and/or PBGC, and your filing may be deemed deficient based upon this further review. See **Penalties** on Page **X.**

[CAUTION] *Do not enter social security numbers in response to questions asking for an employer identification number (EIN). Because of privacy concerns, the inclusion of a social security number or any portion thereof on the Form 5500 or on a schedule or attachment that is open to public inspection may result in the rejection of the filing. If you discover a filing disclosed on the EFAST2 Web site that contains a social security number, immediately call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278).*

Employers without an EIN must apply for one as soon as possible. The EBSA does not issue EINs. To apply for an EIN from the IRS:

- Mail or fax Form SS–4, Application for Employer Identification Number, obtained at the IRS Web site at *www.irs.gov.*
- Call 1–800–829–4933 to receive your EIN by telephone.
- Select the Online EIN Application link at *www.irs.gov.* The EIN is issued immediately once the application information is validated. (The online application process is not yet available for corporations with addresses in foreign countries).

[CAUTION] *Do not attach a copy of the annual registration statement (IRS Form 8955–SSA) identifying separated participants with deferred vested benefits, or a previous year's Schedule SSA (Form 5500) to your 20**XX** Form 5500 Annual Return/Report. The annual registration statement must be filed directly with the IRS and cannot be attached to a Form 5500 Annual Return/Report submission with EFAST2.*

Amended Return/Report

File an amended return/report to correct errors and/or omissions in a previously filed annual return/report for the 20**XX** plan year. The amended Form 5500 and any amended schedules and/or attachments must conform to the requirements in these instructions. See the DOL Web site at *www.efast.dol.gov* for information on filing amended returns/reports for prior years.

[TIP] *Check the Line B(2) box for "an amended return/report" if you filed a previous 20**XX** annual return/report that was given a "Filing_Received," "Filing_Error," or "Filing_Stopped" status by EFAST2. Do not check the Line B box for "an amended return/report" if your previous submission attempts were not successfully received by EFAST2 because of problems with the transmission of your return/report. For more information, go to the EFAST2 Web site at www.efast.dol.gov or call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278).*

Final Return/Report

If all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or legally transferred to the control of another plan, and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied, check the final return/report box in Part I, Line B(3) at the top of the Form 5500. Do not mark the final return/report box if you are reporting participants and/or assets at the end of the plan year. If a trustee has been appointed for a terminated defined benefit pension plan pursuant to ERISA section 4042, the last plan year for which the return/report must be filed is the year in which the trustee is appointed. If you are in this situation, you may contact DOL at *PBGCTrusteedPlan@dol.gov.* See specific instructions for Part I, Line B(5) for the simplified filing requirements for plans with 500 or fewer participants.

Examples:

Mergers/Consolidations

A final return/report should be filed for the plan year (12 months or less) that ends when all plan assets were legally transferred to the control of another plan.

[TIP] *Remember to identify, on Schedule H, Line 5, the plan to which assets were transferred. The transferee plan must also report the merger/consolidation on its own Form 5500, Schedule H Line 5.*

Pension and Welfare Plans That Terminated Without Distributing All Assets

If the plan was terminated, but all plan assets were not distributed, a return/report must be filed for each year the plan has assets. The return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's assets/property.

Group Health Plans and Other Welfare Plans Still Liable To Pay Benefits

A welfare plan cannot file a final return/report if the plan is still liable to pay benefits for claims that were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Signature and Date

For purposes of Title I of ERISA, the plan administrator is required to file the Form 5500. If the plan administrator does not sign a filing, the filing status will indicate that there is an error with your filing, and your filing will be subject to further review, correspondence, rejection, and civil penalties. The plan administrator must electronically sign the Form 5500 Annual Return/Report or 5500–SF submitted to EFAST2.

Note. If the plan administrator is an entity, the electronic signature must be in the name of a person authorized to sign on behalf of the plan administrator.

[CAUTION] *After submitting your filing, you must check the Filing Status. If the filing status is "Processing Stopped," it is possible your submission was not sent with a valid electronic signature as required, and depending on the error, may be considered not to have been filed. By looking closer at the Filing Status, you can see specific error messages applicable to the transmitted filing and determine whether it was sent with a valid electronic signature and what other errors may need to be corrected.*

Authorized Service Provider Signatures. If the plan administrator elects to have a service provider who manages the filing process for the plan get EFAST2 signing credentials and submit the electronic Form 5500 Annual Return/Report for the plan:

(1) the service provider must receive specific written authorization from the plan administrator to submit the plan's electronic filing;

(2) the plan administrator must manually sign a paper copy of the electronically completed Form 5500 Annual Return/Report, and the service provider must include a PDF copy of the manually signed Form 5500 as an attachment to the electronic Form 5500 Annual Return/Report submitted to EFAST2;

(3) the service provider must communicate to the plan administrator any inquiries received from EFAST2, DOL, IRS or PBGC regarding the filing;

(4) the service provider must communicate to the plan administrator that, by electing to use this option, the image of the plan administrator's manual signature will be

included with the rest of the return/report posted by the Labor Department on the Internet for public disclosure; and

(5) the plan administrator must keep the manually signed copy of the Form 5500, with all required schedules and attachments, as part of the plan's records. For more information on the electronic signature option, see the *EFAST2 All-Electronic Filing System FAQs at www.dol.gov/ebsa/faqs/faq-EFAST2.html.*

[CAUTION] *Service providers should consider implications of IRS tax return preparer rules.*

Note. The Code permits either the plan sponsor/employer or the administrator to sign the filing. However, any Form 5500 Annual Return/Report that is not electronically signed by the plan administrator will be subject to rejection and civil penalties under Title I of ERISA.

For DFE filings, a person authorized to sign on behalf of the DFE must sign for the DFE.

The Form 5500 Annual Return/Report must be filed electronically and signed. To obtain an electronic signature, go to *www.efast.dol.gov* and register in EFAST2 as a signer. You will be provided with a UserID and PIN. Both the UserID and PIN are needed to sign the Form 5500. The plan administrator must keep a copy of the Form 5500, including schedules and attachments with all required signatures on file as part of the plan's records. See 29 CFR 2520.103–1.

Electronic signatures on annual returns/reports filed under EFAST2 are governed by the applicable statutory and regulatory requirements.

Preparer Information

Enter the "Preparer's name (including firm's name, if applicable), address, and telephone number" at the bottom of the first page of Form 5500. A preparer is any person who prepares an annual return/report for compensation, or who employs one or more persons to prepare the annual return/report for compensation. If the person who prepared the annual return/report is not the employer named in Line 2a or the plan administrator named in Line 3a, you must name the person on this line. If there are several people who prepare Form 5500 and applicable schedules, please name the person who is primarily responsible for the preparation of the annual return/report.

Note. You must complete preparer information if you are required to file at least 250 returns of any type with the IRS during the calendar year. However, if you are a small filer (files fewer than 250 returns of any type with the IRS during the calendar year), and you do not enter preparer information on the Form 5500, then you must file the paper Form 5500–SUP with the IRS. See the Treasury regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media" (See 79 FR 58256 at *http://federalregister.gov/a/2014-23161*) and Instructions for Form 5500–SUP for more information.

Change in Plan Year

Generally, only defined benefit pension plans need to get approval for a change in the plan year. See Code section 412(d)(1). However, under Rev. Proc. 87–27, 1987–1 C.B. 769, these pension plans may be eligible for automatic approval of a change in plan year. If a change in plan year for a pension or welfare benefit plan creates a short plan year, file the form and applicable schedules by the last day of the 7th calendar month after the short plan year ends or by the extended due date, if filing under an authorized extension of time. Fill in the short plan year beginning and ending dates in the space provided in Part I and check the appropriate box in Part I, Line B of the Form 5500. For purposes of this return/report, the short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also, see the instructions for the *Final Return/Report* to determine if "Final Return/Report" in Line B should be checked.

Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL and the IRS, respectively, to assess or impose penalties for not giving complete and accurate information and for not filing complete and accurate statements and returns/reports. Certain penalties are administrative (*i.e.,* they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of the annual return/report data). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. Generally, whether the penalty is under ERISA or the Code, or both, depends upon the Agency for which the information is required to be filed. One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your failure to file properly is for reasonable cause:

1. A penalty of up to $1,100 a day (or higher amount if adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended) for each day a plan administrator fails or refuses to file a complete and accurate report. See ERISA section 502(c)(2) and 29 CFR 2560.502c–2.
2. A penalty of $25 a day (up to $15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e).
3. A penalty of $1,000 for each failure to file an actuarial statement (Schedule MB (Form 5500) or Schedule SB (Form 5500)) required by the applicable instructions. See Code section 6692.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall on conviction be fined not more than $100,000 or imprisoned not more than 10 years, or both. See ERISA section 501.
2. A penalty up to $10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

Section 4: What To File

The Form 5500 Annual Return/Report reporting requirements vary depending on whether the Form 5500 is being filed for a "large plan," a "small plan," and/or a DFE, and on the particular type of plan (*e.g.,* group health plan, welfare plan other than group health, defined benefit pension plan, defined contribution pension plan) or the kind of DFE involved (*i.e.* common/collective trust (CCT), pooled separate account (PSA), master trust, 103–12 investment entity (103–12 IE), or group insurance arrangement (GIA). The instructions below provide detailed information about each of the Form 5500 schedules and which plans and DFEs are required to file them.

The schedules are grouped in the instructions by type: (1) Pension Benefit Schedules; and (2) General Schedules (including the new Schedule J (Group Health Plan Information). Each schedule is listed separately with a description of the subject matter covered by the schedule and the plans and DFEs that are required to file the schedule.

Filing requirements also are listed by type of filer: (1) Filing Requirements for Pension Benefit Plan; (2) Filing Requirements for Plans Providing Group Health Benefits; (3) Filing Requirements for Welfare Benefit Plan Other Than Group Health; and (4) DFE Filing Requirements. For each filer type, there is a list of the schedules that must be filed with the Form 5500 (including where applicable, separate lists for large plan filers, small plan filers, and different types of DFEs). The filing requirements also are summarized at the end of these instructions in a series of "*Quick Reference Charts of Form 5500, Schedules, and Attachments*" for the various types of filers.

Generally, a return/report filed for a pension benefit plan or welfare benefit plan other than a group health plan that covered fewer than 100 participants as of the beginning of the plan year should be completed following the requirements below for a "small plan," and a return/report filed for a plan that covered 100 or more participants as of the beginning of the plan year should be completed following the requirements below for a "large plan."

Use the number of participants required to be entered in Line 6 of the Form 5500 to determine whether a plan is a "small plan" or "large plan."

Exceptions:

(1) 80–120 Participant Rule: *If the number of participants reported at the beginning of the year was between 80 and 120 (inclusive), and a Form 5500 Annual Return/Report or Form 5500–SF was filed for the prior plan year, you may elect to complete the return/report in the same category ("large plan" or "small plan") as was filed for the prior* *return/report. Thus, if a Form 5500–SF or a Form 5500 Annual Return/Report was filed for the 20XX-1 plan year as a small plan, and* the plan either had fewer than 100 participants as of the beginning of the plan year as reported on Form 5500 Annual Return/Report or the plan is eligible to claim small plan status under 29 CFR 103–1(d) and had 120 or fewer participants as of the beginning of the plan year, *you may elect to complete the 20XX Form 5500 and schedules in accordance with the instructions for a small plan, including for eligible filers, filing the Form 5500–SF instead of the Form 5500.* Defined benefit pension plans, welfare plans, and defined contribution pension plans that check the "first plan" year box use the number reported on Form 5500, Line 6 for this measure. Defined contribution pension plans use the number reported on Form 5500, Line 7g(1)).

(2) Short Plan Year Rule: *If the plan had a short plan year of seven (7) months or less for either the prior plan year or the plan year being reported on the 20XX Form 5500, an election can be made to defer filing the accountant's report in accordance with 29 CFR 2520.104–50. If such an election was made for the prior plan year, the 20XX Form 5500 must be completed following the requirements for a large plan, including the attachment of the Schedule H and the accountant's reports, regardless of the number of participants entered in Part II, Line 6 for defined benefit pension plans, welfare plans,* and defined contribution pension plans that check the "first plan" year box, *or Line 7g(1) for defined contribution pension plans.*

Form 5500 Schedules

Pension Schedules

Schedule R (Retirement Plan Information) is required for both tax-qualified and nonqualified pension benefit plan unless otherwise specified under *Limited Pension Plan Reporting.* For additional information, see the Schedule R instructions.

Schedule MB (Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information) is required for most multiemployer defined benefit pension plans and for defined contribution pension plans that currently amortize a waiver of the minimum funding requirements specified in the instructions for the Schedule MB. For additional information, see the instructions for the Schedule MB and the Schedule R.

Schedule SB (Single-Employer Defined Benefit Plan Actuarial Information) is required for most single-employer defined benefit pension plans, including multiple-employer defined benefit pension plans. For additional information, see the instructions for the Schedule SB.

Schedule E (ESOP Annual Information) is required for all pension benefit plans with ESOP benefits. For additional information, see the Schedule E instructions.

General Schedules

Schedule H (Financial Information) is required for pension benefit plans and welfare benefit plans that are not eligible to file the Form 5500–SF and for all DFE filings. All plans and DFEs required to file the Schedule H are also generally required to attach to the Form 5500 Annual Return/Report a **"Schedule of Assets Held for Investment At End of Year,"** and, if applicable, a **"Schedule of Assets Disposed of During the Plan Year,"** a **"Schedule of Reportable Transactions,"** and a **"Schedule of Delinquent Participant Contributions."** For additional information, see the Schedule H instructions.

Large employee benefit plans, 103–12 IEs, and GIAs filing the Schedule H are generally required to engage an independent qualified public accountant (IQPA) and attach a report of the IQPA pursuant to ERISA section 103(a)(3)(A).

Small employee benefit plans are not required to attach a report of the IQPA if they meet the conditions for eligibility for a waiver of the audit requirements as set forth in 2520.104–46. For these purposes, defined benefit pension plans, welfare plans, and defined contribution pension plans that check the "first plan" year box use the participant count on Line 6, and defined contribution pension plans can use the participant count on Line 7g(1).

Exceptions: Insured, unfunded, or combination unfunded/insured welfare plans including group health plans, as described in 29 CFR 2520.104–44(b)(1), and certain pension plans and arrangements, as described in 29 CFR 2520.104–44(b)(2) and in *Limited Pension Plan Reporting,* are exempt from completing the Schedule H.

Schedule A (Insurance Information) is required if any benefits under an employee benefit plan are provided by an insurance company, insurance service or other similar organization, or through a managed care organization or a health maintenance organization. This includes investment contracts with insurance companies, such as guaranteed investment contracts, pooled separate accounts, and variable annuities. Schedule A is not required for fully insured group health plans with fewer than 100 participants. For additional information, see the Schedule A instructions.

Note. Do not file Schedule A for Administrative Services Only (ASO) contracts. You do not file Schedule A for a plan if a Schedule A is filed for the contract as part of the Form 5500 Annual Return/Report filed directly by a master trust or 103–12 IE in which that plan invested/participated during the plan year.

Schedule C (Service Provider Information) is generally required for all pension plans filing the Form 5500, master trusts, 103–12 IEs, and GIAs to report the information required for: (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (*i.e.,* money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year) and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year. For additional information, including the definition of a "covered service provider," see the Schedule C instructions. Schedule C is also required for welfare benefit plans, including group health plans, unless the plan is exempt under 29 CFR 2520.104–44 from completing the accountant's report requirement and completing Schedule H.

Schedule D (DFE/Participating Plan Information) Schedule D is required when the Form 5500 is filed for a DFE. For additional information, see the Schedule D instructions.

Schedule G (Financial Transaction Schedules) is required for a large plan, master trust, 103–12 IE, or GIA when Schedule H (Financial Information) lines 4b, 4c, and/or 4d are checked "Yes." Part I of the Schedule G reports loans or fixed income obligations in default or classified as uncollectible. Part II of the Schedule G reports leases in default or classified as uncollectible. Part III of the Schedule G reports nonexempt transactions. For additional information, see the Schedule G instructions.

[CAUTION] *An unfunded, fully insured, or combination unfunded/insured welfare plan with 100 or more participants exempt under 29 CFR 2520.104–44 from completing Schedule H must still complete Schedule G, Part III, to report nonexempt transactions.*

Schedule J (Group Health Plan Information). All plans that provide group health benefits must complete the Schedule J (Group Health Plan Information) to report coverage, participation, claims, benefit, and other group health information. Small, fully insured plans only need to complete lines 1–8.

Filing Requirements

Pension Benefit Plans

Pension benefit plan filers must complete the Form 5500 Annual Return/Report, including the signature block and, unless otherwise specified, attach the following schedules and information:

Small Pension Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a small pension plan that is neither exempt from filing nor is filing the Form 5500–SF:

1. Schedule A (as many as needed), to report insurance, annuity, and investment contracts held by the plan.
2. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds.
3. Schedule H, to report plan financial information, unless exempt. See Limited Pension Plan Reporting.
4. Schedule MB or SB, to report actuarial information, if applicable.
5. Schedule R, to report retirement plan information, if applicable.

[CAUTION] *Unless you have checked Schedule H, Line 3h(4) to indicate that the plan has fewer than 100 participants and is claiming a small plan audit waiver of the annual examination and report of an IQPA under 29 CFR 2520.104–46, you must attach the report of the independent qualified public accountant (IQPA) or check Schedule H, Line 3h(2) to indicate that the plan is eligible and elects to defer attaching the*

IQPA's opinion pursuant to 29 CFR 2520.104–50 in connection with a short plan year of seven months or less.

Large Pension Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a large pension plan:

1. Schedule A (as many as needed), to report insurance, annuity, and investment contracts held by the plan.
2. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds.
3. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year, leases in default or classified as uncollectible, and nonexempt transactions, *i.e.*, file Schedule G if Schedule H (Form 5500) lines 4b, 4c, and/or 4d are checked "Yes."
4. Schedule H, to report financial information, unless exempt. See Limited Pension Plan Reporting.
5. Schedule MB or SB, to report actuarial information, if applicable.
6. Schedule R, to report retirement plan information, if applicable.

Eligible Combined Plans

Section 903 of PPA established rules for a new type of pension plan, an "eligible combined plan," effective for plan years beginning after December 31, 2009. See Code section 414(x) and ERISA section 210(e). An eligible combined plan consists of a defined benefit pension plan and a defined contribution pension plan that includes a qualified cash or deferred arrangement under Code section 401(k), with the assets of the two plans held in a single trust, but clearly identified and allocated between the plans. The eligible combined plan design is available only to employers that employed an average of at least two, but not more than 500 employees, on business days during the calendar year preceding the plan year as of which the eligible combined plan is established and that employs at least two employees on the first day of the plan year that the plan is established. Because an eligible combined plan includes both a defined benefit pension plan and a defined contribution pension plan, the Form 5500 filed for the plan must include all the information, schedules, and attachments that would be required for either a defined benefit pension plan (such as a Schedule SB) or a defined contribution pension plan.

Limited Pension Plan Reporting

The pension benefit plans or arrangements described below are eligible for limited annual reporting:

1. **IRA Plans:** A pension plan using individual retirement accounts or annuities (as described in Code section 408) as the sole funding vehicle for providing pension benefits need complete only Form 5500, Part I and Part II, lines 1 through 4, and 9a(8) (check the box for "Code section 408 accounts and annuities on Form 5500).
2. **Fully Insured Pension Plan:** A pension benefit plan providing benefits exclusively through an insurance contract or contracts that are fully guaranteed and that meet all of the conditions of 29 CFR 2520.104–44(b)(2) during the entire plan year must complete all the requirements listed under this *Pension Benefit Plan Filing Requirements* section, except that such a plan is exempt from attaching Schedule H, and an independent qualified public accountant's opinion, and from the requirement to engage an IQPA.

[CAUTION] *A pension benefit plan that has insurance contracts of the type described in 29 CFR 2520.104–44 as well as other assets must complete all requirements for a pension benefit plan, except that the value of the plan's allocated contracts (see below) should not be reported in Part I of Schedule H. All other assets should be reported on Schedule H and any other required schedules. If Schedule H is filed, attach an accountant's report in accordance with the Schedule H instructions.*

Note. For purposes of the annual return/report and the alternative method of compliance set forth in 29 CFR 2520.104–44, a contract is considered to be "allocated" only if the insurance company or organization that issued the contract unconditionally guarantees, upon receipt of the required premium or consideration, to provide a retirement benefit of a specified amount. This amount must be provided to each participant without adjustment for fluctuations in the market value of the underlying assets of the company or organization, and each participant must have a legal right to such benefits, which is legally enforceable directly against the insurance company or organization. For example, deposit administration, immediate participation guarantee, guaranteed investment contracts, and variable annuities are NOT allocated contracts for Form 5500 Annual Return/Report purposes.

Welfare Benefit Plans that Provide Group Health Benefits

Large group health plans must follow the filing rules for large welfare plans and also must file the Schedule J (Group Health Plan Information).

Small group health plans that are unfunded or a combination of unfunded and insured file the complete Form 5500 and the complete Schedule J and Schedule A, if applicable. Small group health plans that are fully insured need only complete Lines 1–5 of the Form 5500 and Lines 1–8 of the Schedule J (and they do not complete Schedule A). Small group health plans that are funded with a trust generally follow the rules for large group health plans funded with a trust (except small welfare plans are not required to complete Schedule G or the other separate schedules listed in 29 CFR 2020.104–46(c)).

Other Welfare Benefit Plans

Welfare benefit plans that do not provide group health benefits must complete the Form 5500 Annual Return/Report, including the signature block and, unless otherwise specified, attach the following schedules and information:

Small Welfare Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a small welfare plan that is neither exempt from filing the annual return/report nor filing the Form 5500–SF:

1. Schedule A (as many as needed), to report insurance contracts held by the plan.
2. Schedule H to report plan financial information, unless exempt.
3. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds, unless exempt.

Large Welfare Plan

The following schedules (including any additional information required by the instructions to the schedules) must be attached to a Form 5500 filed for a large welfare plan:

1. Schedule A (as many as needed), to report insurance and investment contracts held by the plan.
2. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds, unless exempt.
3. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year, leases in default or classified as uncollectible, and nonexempt transactions, *i.e.*, file Schedule G if Schedule H (Form 5500) lines 4b, 4c, and/or 4d are checked "Yes" or if a large welfare plan that is not required to file a Schedule H has nonexempt transactions.
4. Schedule H, to report financial information, unless exempt.

[TIP] *Attach the report of the independent qualified public accountant (IQPA) identified on Schedule H, Line 3c, unless Line 3e(2) or (3) is checked. Neither Schedule H nor an IQPA's opinion is required to be attached to a Form 5500 filed for an unfunded, fully insured or combination unfunded/insured welfare plan that meets the requirements of 29 CFR 2520.104–44. However, Schedule G, Part III, must be attached to the Form 5500 to report any nonexempt transactions for a large welfare plan. A large welfare benefit plan that uses a "voluntary employees' beneficiary association" (VEBA) under Code section 501(c)(9) is generally not exempt from the requirement of engaging an IQPA.*

Direct Filing Entity (DFE) Filing Requirements

Only one Form 5500 Annual Return/Report should be filed for each DFE for all plans participating in the DFE; however, the Form 5500 filed for the DFE, including all required schedules and attachments, must report information for the DFE year (not to exceed 12 months in length) that ends with or within the participating plan's year.

Any Form 5500 filed for a DFE is an integral part of the annual return/report of each participating plan, and the plan administrator may be subject to penalties for failing to file a complete annual report unless both the DFE's Form 5500 and the plan's Form 5500 are properly filed. The information required for a Form 5500 Annual Return/Report filed for a DFE varies according to the type of DFE. The following paragraphs provide specific guidance for the reporting requirements for each type of DFE.

Master Trust

The administrator filing a Form 5500 Annual Return/Report for an employee benefit plan is required to file or have a designee file a Form 5500 for each master trust in which the plan participated at any time during the plan year. For reporting purposes, a "master trust" is a trust for which a regulated financial institution (as defined below) serves as trustee or custodian (regardless of whether such institution exercises discretionary authority or control with respect to the management of assets held in the trust), and in which assets of more than one plan sponsored by a single employer or by a group of employers under common control are held.

"Common control" is determined on the basis of all relevant facts and circumstances (whether or not such employers are incorporated).

A "regulated financial institution" means a bank, trust company, or similar financial institution that is regulated, supervised, and subject to periodic examination by a state or federal agency. A securities brokerage firm is not a "similar financial institution" as used here. See DOL Advisory Opinion 93–21A (available at *www.dol.gov/ebsa*).

The Form 5500 submitted for the master trust must comply with the Form 5500 Annual Return/Report instructions for a *Large Pension Plan,* unless otherwise specified in the forms and instructions. The master trust must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 10. Be certain to check the "master trust" box Part I, Line A, as the DFE type.
2. Schedule A (as many as needed) to report insurance, annuity and investment contracts held by the master trust.
3. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds.
4. Schedule D, to list all plans that participated in the master trust during its year.
5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the master trust year, all leases in default or classified as uncollectible, and nonexempt transactions.
6. Schedule H, except Lines 1a(1), 1a(2), 1a(3), 1g, 1h, 1i, 2a, 2b, 2e, 2f, 2g, 4a, 4e, 4f, 4g, 4h, 4k, 4l, 4m, and 5, to report financial information. The opinion of an independent qualified public accountant (IQPA) is not required for a master trust.
7. Additional information required by the instructions to the above schedules, including, for example, the Schedules of Assets and the Schedule of Reportable Transactions. For purposes of the schedule of reportable transactions, the 5% figure shall be determined by comparing the current value of the transaction at the transaction date with the current value of the investment account assets at the beginning of the applicable fiscal year of the master trust. All attachments must be properly labeled.

Note. If the plan uses more than one master trust, a separate annual report for each master trust must be filed.

Common/Collective Trust (CCT) and Pooled Separate Account (PSA)

A Form 5500 Annual Return/Report is not required to be filed for a CCT or PSA. However, the administrator of a large plan or DFE that participates in a CCT or PSA that files as specified below is entitled to reporting relief that is not available to plans or DFEs participating in a CCT or PSA for which a Form 5500 Annual Return/Report is not filed.

For reporting purposes, "common/collective trust" and "pooled separate account" are, respectively: (1) a trust maintained by a bank, trust company, or similar institution or (2) an account maintained by an insurance carrier, which is regulated, supervised, and subject to periodic examination by a state or federal agency in the case of a CCT, or by a state agency in the case of a PSA, for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations as that term is used in Code section 1563. See 29 CFR 2520.103–3, 103–4, 103–5, and 103–9.

Note. For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3–101(h)(1)(iii) does not constitute a pooled separate account.

The Form 5500 Annual Return/Report submitted for a CCT or PSA must comply with the Form 5500 Annual Return/Report instructions for a Large Pension Plan, unless otherwise specified in the forms and instructions.

The CCT or PSA must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 10. Check "CCT" or "PSA," as appropriate, in Part I, Line A, as the DFE type.
2. Schedule D, to list all plans that participated in the CCT or PSA during its year.
3. Schedule H, except Lines 1a(1), 1a(2), 1a(3), 1c, 1d, 1g, 1h, 1i, 2a, 2b, 2e, 2f, and 2g, to report financial information. CCTs and PSAs are not required to attach an IQPA report or complete Part IV, except Line 4(i)(1). CCTs and PSAs must attach the Line 4i(1) Schedule of Assets Held for Investment at End of Year.

[CAUTION] *Different requirements apply to Schedule H attached to the Form 5500 filed by plans and DFEs participating in CCTs and PSAs, depending upon whether a DFE Form 5500 has been filed for the CCT or PSA. See the instructions for these schedules.*

103–12 Investment Entity (103–12 IE)

DOL Regulation 2520.103–12 provides an alternative method of reporting for plans that invest in an entity (other than a master trust, CCT, or PSA), whose underlying assets include "plan assets" within the meaning of 29 CFR 2510.3–101 of two or more plans that are not members of a "related group" of employee benefit plans. Such an entity for which a Form 5500 is filed constitutes a "103–12 IE." A Form 5500 is not required to be filed for such entities; however, filing a Form 5500 as a 103–12 IE provides certain reporting relief, including the limitation of the examination and report of the independent qualified public accountant (IQPA) provided by 29 CFR 2520.103–12(d), to participating plans and DFEs. For this reporting purpose, a "related group" of employee benefit plans consists of each group of two or more employee benefit plans (1) each of which receives 10% or more of its aggregate contributions from the same employer or from a member of the same controlled group of corporations (as determined under Code section 1563(a), without regard to Code section 1563(a)(4) thereof); or (2) each of which is either maintained by, or maintained pursuant to a collective-bargaining agreement negotiated by, the same employee organization or affiliated employee organizations. For purposes of this paragraph, an "affiliate" of an employee organization means any person controlling, controlled by, or under common control with such organization. See 29 CFR 2520.103–12.

The Form 5500 submitted for an entity holding plan assets that is permitted under 29 CFR 2520.103–12 to file a Form 5500 must comply with the Form 5500 instructions for a *Large Pension Plan,* unless otherwise specified in the forms and instructions.

The 103–12 IE must file:

1. Form 5500, except lines C, D, 1c, 2d, and 6 through 10. Check 103–12 IE in part I, Line A, as the DFE type.
2. Schedule A (as many as needed), to report insurance, annuity and investment contracts held by the 103–12 IE.
3. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds.
4. Schedule D, to list all plans that participated in the 103–12 IE during its year.
5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the 103–12 IE year, leases in default or classified as uncollectible, and nonexempt transactions.
6. Schedule H, except lines 1a(1), 1a(2), 1a(3), 1c, 1d, 1g, 1h, 1i, 2a, 2b, 2e, 2f, 2g, 4a, 4e, 4f, 4g, 4h, 4j, 4k, 4l, 4m, and 5, to report financial information.
7. Additional information required by the instructions to the above schedules, including, for example, the report of the independent qualified public accountant (IQPA) identified on Schedule H, Line 3c, the Line 4i(1) Schedule of Assets Held for Investment at End of Year, and the Line 4i(2) Schedule of Assets Disposed of During the Plan Year. All attachments must be properly labeled.

Group Insurance Arrangement (GIA)

Each welfare benefit plan, regardless of whether it provides group health benefits, that is part of a group insurance arrangement is exempt from the requirement to file a Form 5500 Annual Return/Report if a consolidated report for all the plans in the arrangement was filed in accordance with 29 CFR 2520.104–43. For reporting purposes, a "group insurance arrangement" provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively-bargained multiple-employer plan), fully insures one or more welfare plans of each participating employer, uses a trust or other entity as the holder of the insurance contracts, and uses a trust as the conduit for payment of premiums to the insurance company.

The GIA must file:

1. Form 5500, except lines C and 2d. Check "GIA" in Part I, Line A, as the DFE type.
2. Schedule A (as many as needed), to report insurance, annuity and investment contracts held by the GIA.
3. Schedule C (as many as needed) to report information on service providers who received compensation at or above the applicable $1,000 and $5,000 thresholds.
4. Schedule D, to list all plans that participated in the GIA during its year.
5. Schedule G, to report loans or fixed income obligations in default or determined to be uncollectible as of the end of the GIA year, leases in default or classified as uncollectible, and nonexempt transactions.
6. Schedule H, except lines 4a, 4e, 4f, 4g, 4h, 4l, 4m, and 5, to report financial information.
7. Separate Schedules J for each participating employer, if the GIA provides group health benefits.
8. Additional information required by the instructions to the above schedules, including, for example, the report of the independent qualified public accountant (IQPA) identified on Schedule H, Line 3c, the Schedules of Assets and the Schedule of Reportable Transactions. (All attachments must be properly labeled.)

Section 5: Line-by-Line Instructions for the 20XX Form 5500 and Schedules

Part I—Annual Return/Report Identification Information

File the 20**XX** Form 5500 Annual Return/Report for a plan year that began in 20**XX** or a DFE year that ended in 20**XX**. Enter the beginning and ending dates in Part I. The 20**XX** Form 5500 Annual Return/Report must be filed electronically.

One Form 5500 is generally filed for each plan or entity described in the instructions to the boxes in Line A. Do not check more than one box.

Line A(1)—Box for Single-Employer Plan. Check this box if the Form 5500 is filed for a single-employer plan. A single-employer plan for this Form 5500 reporting purpose is an employee benefit plan maintained by one employer or one employee organization.

Note. Do not check this box even if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m). Check Box A(3).

Line A(2)—Box for Multiple-Employer Plan. Check this box if Form 5500 is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not one of the plans described in A(3) or A(4). A multiple-employer plan can be collectively bargained and collectively funded, but if covered by PBGC termination insurance, must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3), and have not revoked that election or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G). Participating employers do not file individually for this type of plan.

Note. Do not check this box if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m).

"Multiple-Employer Plan Participating Employer Information." If you checked box A(2) for "Multiple-Employer Plan," you must complete the "Multiple-Employer Plan Participating Employer Information" attachment. Enter the name of the plan, EIN, and plan number (PN) as found on the plan's Form 5500. Complete as many entries as needed to report the required information for all participating employers.

Provide a good faith estimate of each employer's percentage of the total contributions (including employer and participant contributions) made by all participating employers during the year. Any employer who was obligated to make contributions to the plan for the plan year, made contributions to the plan for the plan year, or whose employees were covered under the plan is a "participating employer" for this purpose. If a participating employer made no contributions, enter "-0-" in element (c).

Multiple employer welfare plans that are exempt under 29 CFR 2520.104–20 or 29 CFR 2520.104–44 from the obligation to file financial statements with their annual report are required to include only a list of participating employers with the corresponding EIN/PN numbers in elements (a) and (b) of the "Multiple Employer Plan Participating Employer Information" attachment included with their Form 5500.

Line A(3)—Box for Controlled Group. Check this box for a "controlled group" of corporations that is filing a single Form 5500 for reporting purposes. A "controlled group" is a controlled group of corporations under Code section 414(b), a group of trades or businesses under common control under Code section 414(c), or an affiliated service group under Code section 414(m).

"Controlled Group Member Information." If you checked box A(3) for "Controlled Group Plan," you must complete the "Controlled Group Member Information" attachment. Complete as many entries as needed to report the required information for all employers that are participating members of the controlled group sponsoring the plan. Provide a good faith estimate of each employer's percentage of the total contributions (including employer and participant contributions) made by all employers made during the year. Any employer that was a member of the controlled group who was obligated to make contributions to the plan for the plan year, made contributions to the plan for the plan year, or whose employees were covered under the plan is a "participating employer" for this purpose. If a participating employer made no contributions, enter "-0-" in element (c).

Line A(4)—Multiemployer Plan. Check this box if the Form 5500 is filed for a multiemployer plan. A plan is a multiemployer plan if: (a) more than one employer is required to contribute, (b) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer; (c) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made; and (d) the plan meets any other applicable conditions of 29 CFR 2510.3–37. A plan that has made a proper election under ERISA section 3(37)(G) and Code section 414(f)(6) on or before August 17, 2007, is also a multiemployer plan. Participating employers do not file individually for these plans.

Line A(5)—Direct Filing Entity (DFE). If filing as a DFE, check the box to indicate the correct entity type.

Line B(1)—First Return/Report. Check this box if an annual return/report has not been previously filed for this plan or DFE. For the purpose of completing this box, filings made for "one participant" plans for purposes of the Code and not Title I are not considered an annual return/report.

Line B(2)—Amended Return/Report. Check this box if you have already filed for the 20**XX** plan year and are now filing an amended return/report to correct errors and/or omissions on the previously filed return/report. See instructions on page **xx**.

Check the Line B box for an "amended return/report" if you filed a previous 20XX annual return/report that was given a "Filing_Received," "Filing_Error," or "Filing_Stopped" status by EFAST2. Do not check the Line B box for an "amended return/report" if your previous submission attempts were not successfully received by EFAST2 because of problems with the transmission of your return/report. For more information, go to the EFAST2 Web site at *www.efast.dol.gov* or call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278).

Line B(3)—Final Return/Report. Check this box if this Form 5500 is the last annual return/report required to be submitted for this plan. (See Final Return/Report.)

Note. Do not check box B(3) (Final Return/Report) if in Line 9b(4), you check the box to indicate that the plan is an unfunded, fully insured, or combination unfunded/fully insured welfare plan (other than a group health plan) that will not file an annual report for next plan year pursuant to 29 CFR 2520.104–20. Only check the box on Line 9b(4) for a welfare plan that is not required to file a Form 5500 for the next plan year because the welfare plan that does not provide group health benefits has become eligible for an annual reporting exemption. For example, certain unfunded and insured life insurance or disability plans may be required to file the 20**XX** Form 5500 and be exempt from filing a Form 5500 for the plan year 20**XX** if the number of participants covered as of the beginning of the 20**XX** plan year drops below 100. See Who Must File. Should the number of participants covered by such a plan increase to 100 or more in a future year, the plan must resume filing Form 5500 and check the box on Line 9b(4) to indicate on that year's Form 5500 that the filer is an unfunded, fully insured, or combination unfunded/fully insured welfare plan that stopped filing annual reports in an earlier plan year pursuant to 29 CFR 2520.104–20. See 29 CFR 2520.104–20.

Line B(4)—Short Plan Year Return/Report. Check this box if this Form 5500 is being filed for a plan year period of less than 12 months. Provide the dates in Part I, Plan Year Beginning and Ending.

Line B(5)—Plan Trusteed by PBGC. All plans that, as of the due date of this return, have been trusteed by PBGC under section 4041(c) or 4042 of ERISA, must check this box and enter the date of trusteeship in the space provided. Plans with 500 or fewer participants as of the beginning of the plan year (see Part II, Line 6, asking for participant count) only complete all of Part I and lines 1, 2, 3, 6, 9a(3) and 9a(4) in Part II. Plans with more than 500 participants continue to file in accordance with the requirements for large defined benefit pension plans.

Line C—Collectively-Bargained Plan. Check this box when the contributions to the plan and/or the benefits paid by the plan are subject to the collective bargaining process (even if the plan is not established and administered by a joint board of trustees and even if only some of the employees covered by the plan are members of a collective bargaining unit that negotiates contributions and/or benefits). The contributions and/or benefits do not have to be identical for all employees under the plan.

Line D—Extension and DFVC Program. Check the appropriate box here if:

- You filed for an extension of time, using a completed Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, and maintain a copy of the Form 5558 with the filer's records;
- You are filing using the automatic extension of time to file Form 5500 Annual Return/Report until the due date of the federal income tax return of the employer and maintain a copy of the employer's extension of time to file the income tax return with the plan's records;
- You are filing using a special extension of time to file the Form 5500 Annual Return/Report that has been announced by the IRS, DOL, and PBGC. If you checked that you are using a special extension of time, enter a description of the extension of time in the space provided; or
- You are filing under DOL's Delinquent Filer Voluntary Compliance (DFVC) Program.

Part II—Basic Plan Information

Line 1a. Enter the formal name of the plan or DFE. If an annual return/report has previously been filed on behalf of the plan, regardless of the type of Form that was filed (Form 5500, Form 5500–EZ, or Form 5500–SF), use the same name or abbreviation as was used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated.

Line 1b. Enter the three-digit plan or entity number (PN) that the employer or plan administrator assigned to the plan or DFE. This three-digit number, in conjunction with the employer identification number (EIN) entered on Line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan or DFE.

Start at 001 for plans providing pension benefits, plans providing pension and welfare benefits, or DFEs (master trusts, CCTs, and PSAs) except GIAs, as illustrated in the table below.

Start at 501 for plans providing only welfare benefits and GIAs. Do not use 888 or 999.

Once you use a plan or DFE number, continue to use it for that plan or DFE on all future filings with the IRS, DOL, and PBGC. Failure to use the same three-digit plan/DFE number may result in correspondence from DOL or IRS. Do not use this unique three-digit number for any other plan or DFE, even if the first plan or DFE is terminated.

You Should Assign a Plan Number (PN) as Described Below for Each Form 5500 (and Form 5500–SF) With the Same EIN of Plan or DFE Sponsor Entered Into Line 2b

Pension benefit plans and Master trusts, CCTs, PSAs, and 103–12 IEs	001 to the first plan or DFE. Consecutively number other plans providing pension benefits with the same plan sponsor or other master trusts, CCTs, PSAs, or 103–12 IEs with the same sponsor as 002, 003 . . .
Welfare benefit plans, including group health, and GIAs	501 to the first plan or GIA. Consecutively number others as 502, 503 . . .

Exception. If Part II, Line 9a is completed and 333 (or a higher number in a sequence beginning with 333) was previously assigned to the plan, that number may be entered on Line 1b.

Line 1c. Enter the date the plan first became effective.

Line 2a. Limit your response to the information required in each row as specified below:

1. Enter the name of the plan sponsor or, in the case of a Form 5500 filed for a DFE, the name of the insurance company, financial institution, or other sponsor of the DFE (*e.g.,* in the case of a GIA, the trust or other entity that holds the insurance contract, or in the case of a master trust, one of the sponsoring employers). If the plan covers only the employees of one employer, enter the employer's name.

The term "plan sponsor" means:

- The employer, for an employee benefit plan that a single employer established or maintains;
- The employee organization in the case of a plan of an employee organization; or
- The association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan, if the plan is established or maintained jointly by one or more employers and one or more employee organizations, or by two or more employers.

Note. In the case of a multiple-employer plan, file only one annual return/report for the plan. If an association or other entity is not the sponsor, enter the name of a participating employer as sponsor. For a plan of a controlled group of corporations, the name of one of the sponsoring members should be entered. In either case, the same name must be used in all subsequent filings of the Form 5500 Annual Return/Report or Form 5500–SF for the multiple-employer plan or controlled group (see instructions for Line 5 concerning change in sponsorship).

2. Enter any "in care of" (C/O) name.

3. Enter the current street address. A post office box number may be entered in addition to the street address if the Post Office does not deliver mail to the sponsor's street address.

4. Enter the name of the city.

5. Enter the two-character abbreviation of the U.S. state or possession and zip code.

6. Enter the foreign routing code, if applicable. Leave U.S. state and zip code blank if entering a foreign routing code and country name.

7. Enter the foreign country, if applicable. Do not abbreviate the country name after "Enter the foreign country."

8. Enter the D/B/A (the doing business as) or trade name of the sponsor if different from the plan sponsor's name.

9. Enter any second address. Use only a street address here, not a P.O. box.

Note. You can also use the IRS Form 8822–B, Change of Address—Business, to notify the IRS if the address provided here is a change in your business mailing address or your business location.

Line 2b(1). Enter the nine-digit employer identification number (EIN) assigned to the plan sponsor/employer, for example, 00–1234567. In the case of a DFE, enter the employer identification number (EIN) assigned to the CCT, PSA, master trust, 103–12 IE, or GIA.

[CAUTION] *Do not use a social security number in lieu of an EIN. The Form 5500 Annual Return/Report is open to public inspection, and the contents are public* *information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this line may result in the rejection of the filing.*

Employers without an EIN must apply for one as soon as possible. The EBSA does not issue EINs. To apply for an EIN from the IRS:

- Mail or fax Form SS–4, Application for Employer Identification Number, obtained at the IRS Web site at *www.irs.gov.*
- Call 1–800–829–4933 to receive your EIN by telephone.
- Select the Online EIN Application link at *www.irs.gov.* The EIN is issued immediately once the application information is validated. (The online application process is not yet available for corporations with addresses in foreign countries or Puerto Rico.)

A multiple-employer plan or plan of a controlled group of corporations should use the EIN of the sponsor identified in Line 2b(1). The EIN must be used in all subsequent filings of the Form 5500 for these plans (see instructions to Line 5 concerning change in EIN).

If the plan sponsor is a group of individuals, such as for the Board of Trustees for a multiemployer plan, get a single EIN for the group. When you apply for the EIN, provide the name of the group, such as "Joint Board of Trustees of the Local 187 Machinists' Retirement Plan." (If filing IRS Form SS–4, enter the group name on Line 1.)

Note. Except in the case of certain DFEs, the EIN of the plan sponsor is not the EIN of the fund (trust or custodial account) associated with plan.

Line 2b(2). If available, enter the global legal entity identification number (LEI). With respect to any company, the LEI is the "legal entity identifier" assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator. In the case of a financial institution, if a "legal entity identifier" has not been assigned, then provide the RSSD ID assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.

Line 2c. Enter the current telephone number for the plan sponsor. Use numbers only, including area code, and do not include any special characters.

Line 2d. Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages XX–XY. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a. Limit your response to the information required in each row as specified below:

1. Enter the current name and address of the plan administrator unless the administrator is the sponsor identified in Line 2. If both the plan administrator name and address are the same as the plan sponsor name and address, check the "Same as Plan Sponsor" box and disregard items 2 through 6 below. If the Form 5500 is submitted for a DFE, check the appropriate box in Part I, Line A, and enter the appropriate DFE code.

The term "plan administrator" means:

- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by regulations if an administrator is not designated and a plan sponsor cannot be identified.

2. Enter any "in care of" (C/O) name.

3. Enter the current street address. A post office box number may be entered, in addition to the street address, if the Post Office does not deliver mail to the administrator's street address.

4. Enter the name of the city.

5. Enter the two-character abbreviation of the U.S. state or possession and zip code.

6. Enter the foreign routing code and foreign country, if applicable. Leave U.S. state and zip code blank if entering foreign routing code and country information.

Line 3b. Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500 reporting purposes.

If the plan administrator does not have an EIN, apply for one as explained in the instructions for Line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Do not use a social security number in lieu of an EIN. The Form 5500 and its schedules and attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Form 5500 or any of it schedules or attachments may result in the rejection of the filing.

Note. Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must get an EIN.

Line 3c. Enter the current telephone number for the plan administrator.

Line 4. A plan must have at least one fiduciary (a person or entity) named in the written plan document, or through a process described in the plan, as having control over the plan's operation. The named fiduciary can be identified by office or by name. For some plans, it may be an administrative committee or a company's board of directors.

Enter the name and current address of the "named fiduciary" unless the named fiduciary is the plan sponsor identified in Line 2. If both the fiduciary name and address are the same as the plan sponsor name and address, check the "Same as Plan Sponsor" box. If the named fiduciary is an entity such as a committee or board, include the name and contact information for a specific individual, as well as the name of the entity. If you are unable to determine who is the "named fiduciary," enter the name and identifying information of the person who appointed the plan trustee.

Line 5. If the plan sponsor's or DFE's name, EIN, or LEI have changed since the last return/report was filed for this plan or DFE, enter the plan sponsor's or DFE's name, EIN, LEI, and the plan number as it appeared on the last return/report filed.

[CAUTION] *The failure to indicate on Line 5 that a plan or plan sponsor was previously identified by a different name, employer identification number (EIN), LEI, or plan number could result in correspondence from the DOL and the IRS.*

Line 5a. Enter the plan sponsor's name as it appeared on the last return/report filed.

Line 5b(1). Enter the plan sponsor's EIN as it appeared on the last return/report filed.

Line 5b(2). Enter the plan sponsor's LEI (if available) as it appeared on the last return/report filed.

Line 5c. Enter the plan sponsor's plan number as it appeared on the last return/report filed.

Lines 6 and 7. All filers must complete both lines 6 and 7 unless the Form 5500 is filed for an IRA Plan described in Limited Pension Plan Reporting or for a DFE.

The description of "participant" in the instructions below is only for purposes of these lines.

An individual becomes a participant covered under an employee welfare benefit plan on the earliest of:

- the date designated by the plan as the date on which the individual begins participation in the plan;
- the date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or
- the date on which the individual makes a contribution to the plan, whether voluntary or mandatory.

See 29 CFR 2510.3–3(d)(1). This includes former employees who are receiving group health continuation coverage benefits pursuant to Part 6 of ERISA and who are covered by the employee welfare benefit plan. Covered dependents are not counted as participants. A child who is an "alternate recipient" entitled to health benefits under a qualified medical child support order (QMCSO) should not be counted as a participant for lines 6 and 7. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual (a) is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and (b) is not designated by the plan as a participant. See 29 CFR 2510.3–3(d)(2).

[TIP] *Before counting the number of participants, especially in a welfare benefit plan, it is important to determine whether the plan sponsor has established one or more plans for Form 5500/Form 5500–SF reporting purposes. As a matter of plan design, plan sponsors can offer benefits through various structures and combinations. For example, a plan sponsor could create (i) one plan providing major medical benefits, dental benefits, and vision benefits, (ii) two plans with one providing major medical benefits and the other providing self-insured dental and vision benefits; or (iii) three separate plans. You must review the governing documents and actual operations to determine whether welfare benefits are being* *provided under a single plan or separate plans.*

The fact that you have separate insurance policies for each different welfare benefit does not necessarily mean that you have separate plans. Some plan sponsors use a "wrap" document to incorporate various benefits and insurance policies into one comprehensive plan. In addition, whether a benefit arrangement is deemed to be a single plan may be different for purposes other than Form 5500/Form 5500–SF reporting. For example, special rules may apply for purposes of HIPAA, COBRA, and Internal Revenue Code compliance. If you need help determining whether you have a single welfare benefit plan for Form 5500/Form 5500–SF reporting purposes, you should consult a qualified benefits consultant or legal counsel.

For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order (QDRO) are not to be counted as participants for this line.

For pension benefit plans, "participant" for this line means any individual who is included in one of the categories below:

1. Active participants (*i.e.,* any individuals who are currently in employment covered by the plan and who are earning or retaining credited service under the plan). This includes any individuals who are eligible to elect to have the employer make payments under a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under the plan. This does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a "cash-out" distribution or deemed distribution of their entire nonforfeitable accrued benefit.

2. Retired or separated participants receiving benefits (*i.e.,* individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan). This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

3. Other retired or separated participants entitled to future benefits (*i.e.,* any individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future). This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Line 7g. Enter in element (1) the number of participants who have account balances at the beginning of the year. Enter in element (2) the number of participants included on Line 7f (total participants at the end of the plan year) who have account balances at the end of the plan year. For example, for a Code section 401(k) plan the number entered on Line 7g should be the number of participants counted on line 7f who have made a contribution, or for whom a contribution has been made, to the plan for this plan year or any prior plan year. Enter in element (3) the number of participants that made contributions to the plan (regardless of whether the employer made contributions) during the plan year. Both defined contribution pension plans and welfare plans complete element (3). Enter in element (4) the number of participants that terminated employment during the plan year that had their entire account balance distributed during the plan year. Only defined contribution pension plans complete element (4).

Welfare plans should leave Line 7g(1), (2), and (4) blank. Defined benefit pension plans should also leave Line 7g blank.

Line 7h. Include any individual who terminated employment during this plan year, whether or not he or she (a) incurred a break in service, (b) received an irrevocable commitment from an insurance company to pay all the benefits to which he or she is entitled under the plan, and/or (c) received a cash distribution or deemed cash distribution of his or her nonforfeitable accrued benefit. Multiemployer plans and multiple-employer plans that are collectively bargained do not have to complete Line 7h.

Line 8. Only multiemployer plans should complete Line 8. Multiemployer plans must enter the total number of employers obligated to contribute to the plan. For purposes of Line 8 of the Form 5500, an employer obligated to contribute is defined as an employer who, during the 20**XX** plan year, is a party to the collective bargaining agreement(s) pursuant to which the plan is maintained or who may otherwise be subject to withdrawal liability pursuant to ERISA section 4203. Any two or more contributing entities (*e.g.,* places of business with separate collective bargaining agreements) that have the same nine-digit employer identification number (EIN) must be aggregated and counted as one employer for this purpose.

Line 9. Benefits Provided Under the Plan. Answer all questions in Line 9a based on the reporting year of the plan or arrangement.

Line 9a(1). Defined Benefit Pension Features; How Benefits Are Calculated. If benefits are based primarily on pay, check the box "Benefits are primarily pay related."

If benefits are primarily flat dollar, including dollars per year of service, check the box "Benefits are primarily flat dollar."

Check the box for "Cash balance" if the plan has a "cash balance" formula under which the accumulated benefit provided under the formula is expressed as the current balance of a hypothetical account maintained for the participant. For this purpose, a "cash balance" formula is a lump sum based benefit formula in a defined benefit pension plan by whatever name (for example, personal account plan, life cycle plan, cash account plan, etc.)

Check the box for "Pension equity plan (PEP)" if the plan has a "pension equity plan formula under which the accumulated benefit provided under the formula is expressed as the current value of an accumulated percentage of the participant's final average compensation or is expressed as a current single-sum dollar amount equal to a percentage of the participant's *highest* average compensation (with a permitted lookback period for determining highest average compensation, such as highest 5 out of the last 10 years).

Check the box for "Other hybrid plan" if the plan provides a lump sum based benefit formula that is different from the cash balance or pension equity plan formula. Note that a benefit formula does not constitute a lump sum based benefit formula unless a distribution of the benefits under that formula in the form of a single-sum payment equals the accumulated benefit under that formula (except to the extent the single-sum payment is greater to satisfy the requirements of Code section 411(d)(6)).

Line 9a(2) Code Section Arrangements for Defined Benefit Pension Plans. Check the box for "Code section 401(h) arrangement" if the plan contains separate accounts under Code section 401(h) to provide employee health benefits.

Check the box for "Code section 414(k) arrangement" if benefits are based partly on the balance of the separate account of the participant (also include appropriate defined contribution pension feature codes).

Line 9a(3) Terminated Defined Benefit Pension Plan. Check "yes" if the plan is covered by PBGC and was terminated and closed out for PBGC purposes before the end of the plan year (or a prior plan year), and either (1) the plan terminated in a standard (or distress) termination and completed the distribution of plan assets in satisfaction of all benefit liabilities (or all ERISA Title IV benefits for distress termination); or (2) a trustee was appointed for a terminated plan pursuant to ERISA section 4042.

Line 9a(4) PBGC Covered Defined Benefit Pension Plan. If you are uncertain whether the plan is covered under the PBGC termination insurance program, check the box "Not determined" and contact the PBGC either by phone at 1–800–736–2444, by Email at *standard@pbgc.gov*, or in writing to Pension Benefit Guaranty Corporation, Standard Termination Compliance Division, Suite 930, Processing and Technical Assistance Branch, 1200 K Street, NW., Washington, DC 20005–4026. If you checked the box "Yes," enter the My PAA generated confirmation number for the premium filing for this plan year (see filing receipt). If you amended your premium filing for this plan year, enter the confirmation number for that filing and not for the previous filing(s). Defined contribution pension plans and welfare plans need not complete this item.

Line 9a(5) Frozen Plans. Check "Yes", if the plan is frozen. Both defined contribution and defined benefit pension plans must indicate whether the plan is frozen.

Line 9a(6) Offset Arrangement. Both defined benefit and contribution plans that are part of an offset arrangement must answer this question. Check "Yes" if plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer. If you have checked "Yes," enter the name, EIN, and if available, LEI of sponsor, and PN of the other plan or arrangement.

Line 9a(7) Defined Contribution Pension Plan Type(s). If this is a defined contribution pension plan, check all the type(s) that apply.

Line 9a(8) Defined Contribution Pension Plan Arrangements. If this is a defined contribution pension plan, check all the type(s) of arrangements under which the plan operates.

Line 9a(9) Defined Contribution Pension Plan Features. If this is a defined contribution pension plan, check all that apply to indicate features of the plan.

Check automatic enrollment feature if the plan has elective contributions from payroll and provides for automatic enrollment in the plan.

A designated Roth account is a feature in new or existing 401(k), 403(b) or governmental 457(b) plans that permit such plans to accept designated Roth contributions and certain rollovers. If a plan adopts this feature, employees can designate some or all of their elective contributions (also referred to as elective deferrals) as designated Roth contributions (which are included in gross income), rather than traditional, pre-tax elective contributions.

Check the box for ‘‘Age/service weighted plan’’ if allocations are based on age, service, or age and service. New comparability or similar plan: Allocations are based on participant classifications and a classification(s) consists entirely or predominantly of highly compensated employees; or the plan provides an additional allocation rate on compensation above a specified threshold, and the threshold or additional rate exceeds the maximum threshold or rate allowed under the permitted disparity rules of Code section 401(l).

Check ‘‘Other’’ if the plan has any other particularized features for defined contribution pension plans that are not listed above and enter a short description in the space provided.

Line 9a(10) Participant-Directed Defined Contribution Pension Plan. If you check ‘‘Yes’’ to identify that the plan is a participant-directed defined contribution plan, check the box for ERISA section 404(c) plan if the plan, or any part of it, is intended to meet the conditions of 29 CFR 2550.404c–1.

Check the box for total participant-directed account plan if participants have the opportunity to direct the investment of all the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c is intended to be met.

Check partial participant-directed account if participants have the opportunity to direct the investment of a portion of the assets allocated to their individual accounts, regardless of whether 29 CFR 2550.404c is intended to be met. Do not check both ‘‘total’’ and ‘‘partial’’ participant-directed account.

Check the box for participant-directed brokerage accounts (also referred to as ‘‘open brokerage windows’’) if the plan provides such accounts as an investment option under the plan. If you check that the plan has participant-directed brokerage accounts, enter the number of participants that invested through such accounts during the plan year.

Line 9a(11) Qualified Default Investment Alternatives (QDIAs). Regardless of whether the plan is total or partial participant-directed, if the plan uses default investment alternatives that are intended to be QDIA(s) for participants who fail to direct assets in their account, also check the box to so indicate. If the plan uses a QDIA for participants who fail to direct assets in their account, indicate the type of default investment alternative: target date/life fund; fixed income; money market or equivalent; balanced fund; professionally managed account; or other. If other, specify the type of account. If you checked the box for ‘‘Other,’’ you may be using an investment alternative that does not satisfy the QDIA requirements in the Department of Labor's regulation at 29 CFR 2550.404c–5.

Line 9a(12) Eligible Combined Plan Under Code section 414(x). If the plan is an eligible combined plan under Code section 414(x), check ‘‘Yes.’’

Note. In the case of an eligible combined plan under Code section 414(x) and ERISA section 210(e), you must answer all applicable line items for both the defined benefit pension features and the defined contribution pension features of the plan.

Line 9a(13). Check this box if a rollover from a plan was used to start up the business (ROBS) sponsoring this plan.

Line 9a(14). If the plan is an employee stock ownership plan (ESOP) or has ESOP features, check all applicable boxes. You must also attach a Schedule E if the plan is an ESOP or has ESOP features.

Line 9a(15) Other Pension Benefit Features. Check all that apply.

Notes: (1) If a plan sponsor or an employer adopted a pre-approved plan that includes a master & prototype plan or a volume submitter plan, enter the most recent adoption date and the IRS favorable opinion or advisory letter's serial number. (2) Sponsors of Puerto Rico plans, check the box to indicate that the plan is not intended to be qualified under Code sections 401, 403, or 408 only if:

1. only Puerto Rico residents participate;
2. the trust is exempt from income tax under the laws of Puerto Rico, and
3. the plan administrator has not made the election under ERISA section 1022(i)(2), and, therefore, the plan is not intended to qualify under section 401(a) of the Internal Revenue Code (U.S).

Line 9b Welfare Benefit Plan Characteristics. Plans that provide welfare benefits must answer all applicable questions in Line 9b. Plans that provide only pension benefits skip to question 10.

Line 9b(1) Group Health Benefits. If the plan provides health, dental, or vision coverage, answer ‘‘Yes’’ and check all that apply. If you answered ‘‘Yes’’ here, you must attach Schedule J—Group Health Plan Information. Plans that offer excepted benefits that consist of limited scope dental or vision benefits must still file a Schedule J.

Line 9b(2) Disability. If the plan provides disability benefits, answer ‘‘Yes’’ and check all that apply.

Line 9b(3) Other Welfare Benefits. If the plan provides welfare benefits other than group health or disability, answer ‘‘Yes’’ and check all that apply. If the type of benefits is not listed, check ‘‘other’’ and enter a description.

Line 9b(4) Welfare Plans That Do Not Provide Health Benefits That Relied on or Will Be Relying on 29 CFR 2520.104.20. Welfare plans that provide health benefits must file the Form 5500 annually and cannot rely on the exemption from reporting under 29 CFR 2520.104–20.

Line 10 Funding and Benefit Arrangements. Check all boxes that apply to indicate the funding and benefit arrangements used during the plan year. The ‘‘funding arrangement’’ is the method for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides benefits. The ‘‘benefit arrangement’’ is the method by which the plan provides benefits to participants. For purposes of Line 10:

‘‘*Insurance*’’ means the plan has an account, contract, or policy with an insurance company, insurance service, or other similar organization, or through a managed care organization or a health maintenance organization during the plan or DFE year. (This includes investments with insurance companies such as guaranteed investment contracts (GICs).) An annuity account arrangement under Code section 403(b)(1) that is required to complete the Form 5500 should check ‘‘insurance’’ for both the plan funding arrangement and plan benefit arrangement. Do not check ‘‘insurance’’ if the sole function of the insurance company was to provide administrative services.

‘‘*Code section 412(e)(3) insurance contracts*’’ are contracts that provide retirement benefits under a plan that are guaranteed by an insurance carrier. In general, such contracts must provide for level premium payments over the individual's period of participation in the plan (to retirement age), premiums must be timely paid as currently required under the contract, no rights under the contract may be subject to a security interest, and no policy loans may be outstanding. If a plan is funded exclusively by the purchase of such contracts, the otherwise applicable minimum funding requirements of section 412 of the Code and section 302 of ERISA do not apply for the year and neither the Schedule MB nor the Schedule SB is required to be filed.

‘‘*Trust*’’ includes any fund or account that receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company. A custodial account arrangement under Code section 403(b)(7) that is required to complete the Form 5500 should check ‘‘trust’’ for both the plan funding arrangement and the plan benefit arrangement.

‘‘*General assets of the sponsor*’’ means either the plan had no assets or some assets were commingled with the general assets of the plan sponsor prior to the time the plan actually provided the benefits promised.

Example. If the plan holds all its assets invested in registered investment companies and other non-insurance company investments until it purchases annuities to pay out the benefits promised under the plan, box 10a(3) should be checked as the funding arrangement and box 10b(1) should be checked as the benefit arrangement.

Note. An employee benefit plan that checks boxes on Lines 10a(1), 10a(2), 10b(1), and/or 10b(2) must attach Schedule A (Form 5500), Insurance Information, to provide information concerning each contract year ending with or within the plan year. See the instructions to the Schedule A and enter the number of Schedules A on Line 11b(2), if applicable.JY2.

Line 11. Check the boxes on Line 11 to indicate the schedules being filed and, where applicable, count the schedules and enter the number of attached schedules in the space provided.

20XX Instructions for Schedule A (Form 5500) Insurance Information

General Instructions

Who Must File

Schedule A (Form 5500) must be attached to the Form 5500 filed for every defined benefit pension plan, defined contribution pension plan, and welfare benefit plan required to file a Form 5500 Annual Return/Report if any benefits under the plan are provided by an insurance company, insurance service, or other similar organization, or through a managed care organization or a health maintenance organization. This includes investment and annuity contracts with insurance companies such as guaranteed investment contracts (GICs) and variable annuities. In addition, Schedules A must be attached to a Form 5500 filed for GIAs, master trusts, and 103–12 IEs for each insurance or annuity contract held in the master trust, or by the 103–12 IE or the GIA. Plans with fewer than 100 participants that provide group health benefits that are fully insured do not complete Schedule A.

TIP. *If Form 5500 Line 10a(1), 10a(2), 10b(1), or 10b(2) is checked, indicating that either the plan funding arrangement or plan benefit arrangement includes an account, policy, or contract with an insurance company (or similar organization), at least one Schedule A would be required to be attached to the Form 5500 filed for a pension or welfare plan to provide information concerning the contract year ending with or within the plan year.*

Do not file Schedule A for a contract that is an Administrative Services Only (ASO) contract, a fidelity bond or policy, or a fiduciary liability insurance policy. Also, if a Schedule A for a contract or policy is filed as part of a Form 5500 for a master trust or 103–12 IE that holds the contract, do not include a Schedule A for the contract or policy on the Form 5500s filed for the plans participating in the master trust or 103–12 IE. Schedule A is not required to be attached by a small, fully insured group health plan.

Check the Schedule A box on the Form 5500 (Part II, Line 11b(2)), and enter the number attached in the space provided if one or more Schedules A are attached to the Form 5500.

Specific Instructions

Information entered on Schedule A should pertain to the insurance contract or policy year ending with or within the plan year (for reporting purposes, a year cannot exceed 12 months).

Example. If an insurance contract year begins on July 1 and ends on June 30, and the plan year begins on January 1 and ends on December 31, the information on the Schedule A attached to the 20**XX** Form 5500 should be for the insurance contract year ending on June 30, 20**XX**.

Exception. If the insurance company maintains records on the basis of a plan year rather than a policy or contract year, the information entered on Schedule A may pertain to the plan year instead of the policy or contract year.

Include only the contracts issued to or held by the plan, GIA, master trust, or 103–12 IE for which the Form 5500 is being filed.

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule A is attached.

Do not use a social security number in lieu of an EIN. The Schedule A and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule A or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see Section 3: Electronic Filing Requirement under General Instructions to Form 5500. The EBSA does not issue EINs.

Part I—Information Concerning Insurance Contract Coverage, Fees, and Commissions

Line 1a. Enter the name of the insurance carrier. If you are reporting the same insurance carrier on multiple Schedules A to report different contracts, use the same name on each Schedule A.

Line 1b. Enter the EIN of the insurance carrier. If you are reporting the same insurance carrier on multiple Schedules A to report different contracts, use the same EIN on each Schedule A.

Line 1c. Enter the five-digit "Company Code" number assigned by the National Association of Insurance Commissioners (NAIC) to the insurance company. Do not use the NAIC "group code" or a state-issued identity number for the insurance company.

Line 1d. If individual policies with the same carrier are grouped as a unit for purposes of this report, and the group does not have one identification number, you may use the contract or identification number of one of the individual contracts, provided this number is used consistently to report these contracts as a group and the plan administrator maintains the records necessary to disclose all the individual contract numbers in the group upon request. Use separate Schedules A to report individual contracts that cannot be grouped as a unit.

Line 1e. For contracts or policies providing group health benefits, enter the health plan identifier (HPID) required under the Health Insurance Portability and Accountability Act (HIPAA).

Line 1f. Enter the beginning and ending dates of the policy year for the contract identified in elements (1) and (2). Leave 1(f) blank if separate contracts covering individual employees are grouped.

Part II—Investment and Annuity Contract Information

Line 3. Enter the current value of the plan's interest at year end in the contract reported on Line 6 *e.g.*, deposit administration (DA), immediate participation guarantee (IPG), guaranteed investment contracts (GIC), or variable annuity contract.

Exception. Contracts reported on Line 6 need not be included on Line 3 if: (1) the Schedule A is filed for a defined benefit pension plan and the contract was entered into before March 20, 1992; or (2) the Schedule A is filed for a defined contribution pension plan and the contract is a fully benefit-responsive contract, *i.e.*, it provides a liquidity guarantee by a financially responsible third party of principal and previously accrued interest for liquidations, transfers, loans, or hardship withdrawals initiated by plan participants exercising their rights to withdraw, borrow, or transfer funds under the terms of a defined contribution pension plan that does not include substantial restrictions to participants' access to plan funds.

Important Reminder. Plans may treat multiple individual annuity contracts, including Code section 403(b)(1) annuity contracts, issued by the same insurance company as a single group contract for reporting purposes on Schedule A.

Line 4. Enter the current value of the plan's interest under this contract in separate accounts at contract year end. Check whether the separate account is a pooled separate account (PSA), other separate account, or variable annuity. If other, enter a description of the separate account.

Line 5 Contracts with Allocated Funds

Line 5a. Enter a description of the basis of the rates.

Line 5b. Enter the amount of premiums paid to the carrier.

Line 5c. Enter the amount, if any, of premiums due but unpaid at the end of year.

Line 5d. If the carrier, service, or other organization incurred any specific costs in connection with the acquisition or retention of the contract or policy, enter the amount and specify the nature of the costs.

Line 5e. Check the appropriate box to indicate whether this is for individual policies, a group deferred annuity or other. If you check "Other," you must enter a description of the type of contract.

Line 5f. If the contract being reported here was purchased, in whole or in part, to distribute benefits from a terminating plan, you must check the box in Line 5f.

Line 6 Contracts with Unallocated Funds

Lines 6a–f. Report contracts with unallocated funds. Do not include portions of these contracts maintained in separate accounts. Show deposit fund amounts rather than experience credit records when both are maintained.

Part III—Welfare Benefit Contract Information

Line 7. Since plan coverage may fluctuate during the year, the administrator should estimate the number of persons that were covered for each benefit by the contract at the end of the policy or contract year.

Persons, for purposes of this line, includes participants, beneficiaries, and dependents of participants that are covered under the insurance contract (such as with family coverage). Where contracts covering individual employees are grouped, compute entries as of the end of the plan year.

Line 8a. Report a stop-loss insurance policy that is an asset of the plan on Schedule A.

Note. Employers sponsoring welfare plans may purchase a stop-loss insurance policy with the employer as the insured to help the employer manage its risk associated with its liabilities under the plan. These employer contracts with premiums paid exclusively out of the employer's general assets without any employee contributions generally are not plan assets and are not reportable on Schedule A, but may be required to be reported on Schedule J.

Line 11. Indicate whether there were any premium delinquencies during the reporting year. You must answer "Yes" or "No." Do not leave Line 11a blank. If you answered "Yes," you must indicate both the number of times delinquent for premiums due but unpaid during the year, and for each delinquency, the number of days delinquent. If you answered "no" to line 11a, check "N/A." If any premium payments that were not made within the time required by the insurance carrier that resulted in a lapse of insurance coverage, you must answer "Yes" to Line 11a even if coverage was retroactively reinstated.

Part IV—Fee and Commission Information

Lines 12 and 13. Report on Line 12 the total of all insurance fees and commissions directly or indirectly attributable to the contract or policy placed with or retained by the plan.

Totals. Enter on Line 12 the total of all such commissions and fees paid to agents, brokers, and other persons listed on Line 13. Complete a separate Line 13 item (elements (a) through (f)) for each person listed.

For purposes of Lines 12 and 13, commissions and fees include sales and base commissions and all other monetary and non-monetary forms of compensation where the broker's, agent's, or other person's eligibility for the payment or the amount of the payment is based, in whole or in part, on the value (*e.g.,* policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by an ERISA plan, including, for example, persistency and profitability bonuses. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported in Lines 12a and b and in Lines 13c and d, as appropriate.

Insurers must provide plan administrators with an allocation of commissions and fees attributable to each contract. Any reasonable method of allocating commissions and fees to policies or contracts is acceptable, provided the method is disclosed to the plan administrator. A reasonable allocation method could, in the Department of Labor's view, allocate fees and commissions to a Schedule A based on a calendar year calculation even if the plan year or policy year was not a calendar year. For additional information on these Schedule A reporting requirements, see *ERISA Advisory Opinion 2005–02A,* available on the Internet at *www.dol.gov/ebsa.*

Where benefits under a plan are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, and the contract or policy is reported on a Schedule A, payments of reasonable monetary compensation by the insurer out of its general assets to affiliates or third parties for performing administrative activities necessary for the insurer to fulfill its contractual obligation to provide benefits, where there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, then the payments for administrative services by the insurer to the affiliates or third parties do not need to be reported on lines 12 and 13 of Schedule A. This would include compensation for services such as recordkeeping and claims processing services provided by a third party pursuant to a contract with the insurer to provide those services but would not include compensation provided by the insurer incidental to the sale or renewal of a policy, such as finder's fees, insurance brokerage commissions and fees, or similar fees.

Schedule A reporting also is not required for compensation paid by the insurer to a "general agent" or "manager" for that general agent's or manager's management of an agency or performance of administrative functions for the insurer. For this purpose, (1) a "general agent" or "manager" does not include brokers representing insureds, and (2) payments would not be treated as paid for managing an agency or performance of administrative functions where the recipient's eligibility for the payment or the amount of the payment is dependent or based on the value (*e.g.,* policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by ERISA plan(s).

Schedule A reporting is not required for occasional non-monetary gifts or meals of insubstantial value that are tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. For this exemption to be available, the gift or gratuity must be both occasional and insubstantial. For this exemption to apply, the gift must be valued at less than $50, the aggregate value of gifts from one source in a calendar year must be less than $250, but gifts with a value of less than $10 do not need to be counted toward the $250 annual limit. If the $250 aggregate value limit is exceeded, then the aggregate value of all the gifts will be reportable. For this purpose, non-monetary gifts of less than $10 also do not need to be included in calculating the aggregate value of all gifts required to be reported if the $250 limit is exceeded.

Gifts from multiple employees of one service provider should be treated as originating from a single source when calculating whether the $50 or $250 thresholds apply. On the other hand, in applying the threshold to an occasional gift received from one source by multiple employees of a single service provider, the amount received by each employee should be separately determined in applying the $50 and $250 thresholds. For example, if 11 employees of a broker attend a business conference put on by an insurer designed to educate and explain the insurer's products for employee benefit plans, and the insurer provides, at no cost to the attendees, refreshments valued at $25 per individual, the gratuities would not be reportable on lines 12 and 13 of the Schedule A even though the total cost of the refreshments for all the employees would be $275.

These thresholds are for purposes of Schedule A reporting. Filers are cautioned that the payment or receipt of gifts and gratuities of any amount by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Line 13. Identify agents, brokers, and other persons individually in descending order of the amount paid. Complete as many entries as necessary to report all required information. Complete 13a-f for each person as specified below.

13a. Enter the name and address of the agents, brokers, or other persons to whom commissions or fees were paid.

13b. Enter any relationship of the person identified in Line 13a to the plan sponsor, to the participating employer or employee organization, or to any person known to be a party-in-interest, for example, employer, plan sponsor, employee of employer, vice-president of employer, union officer, affiliate of plan recordkeeper/fiduciary/investment manager, etc.

13c. Report all sales and base commissions here. For purposes of this element, sales and/or base commissions are monetary amounts paid by an insurer that are charged directly to the contract or policy and that are paid to a licensed agent or broker for the sale or placement of the contract or policy. All other payments should be reported in Line 13d as fees.

13d. Fees to be reported here represent payments by an insurer attributable directly or indirectly to a contract or policy to agents, brokers, and other persons for items other than sales and/or base commissions (*e.g.,* service fees, consulting fees, finders' fees, profitability and persistency bonuses, awards, prizes, and non-monetary forms of compensation). Fees paid to persons other than agents and brokers should be reported here, not in Parts II and III on Schedule A as acquisition costs, administrative charges, etc.

13e. Enter the purpose(s) for which fees were paid.

13f. Enter the most appropriate organization code for the broker, agent, or other person entered in Line 13a.

Code Type of Organization

1 Banking, Savings & Loan Association, Credit Union, or other similar financial institution
2 Trust Company
3 Insurance Agent or Broker
4 Agent or Broker other than insurance
5 Third party administrator
6 Investment Company/Mutual Fund
7 Investment Manager/Adviser
8 Labor Union
9 Foreign entity (*e.g.*, an agent or broker, bank, insurance company, etc., not operating within the jurisdictional boundaries of the United States)
0 Other

For plans, GIAs, master trusts, and 103–12 IEs required to file Part I of Schedule C, commissions and fees listed on the Schedule A are not required to be reported again on Schedule C. The amount of the compensation that must be reported on Schedule A must, however, be taken into account in determining whether the agent's, broker's, or other person's direct or indirect compensation in relation to the plan or DFE is $1,000 or more indirect compensation or combined direct and indirect compensation or $5,000 or more in direct compensation and, thus, requiring the compensation not listed on the Schedule A to be reported on the Schedule C. See FAQs about the Schedule C available on the EBSA Web site at *www.dol.gov/ebsa/faqs.*

Part V—Provision of Information

The insurance company, insurance service, or other similar organization is required under ERISA section 103(a)(2) to provide the plan administrator with the information needed to complete this return/report. If you do not receive this information in a timely manner, contact the insurance company, insurance service, or other similar organization.

Line 14. If information is missing on Schedule A due to a refusal by the insurance company, insurance service, or other similar organization to provide information, check "Yes" on Line 14. If you answer "Yes" to Line 14, you must complete Line 14b. If you received all the information necessary to receive the Schedule A, check "No" and leave Line 14b blank.

TIP. *The insurance company, insurance service, or other similar organization is statutorily required to provide you with all of the information necessary to complete the Schedule A, but need not provide the information on a Schedule A itself.*

On Line 14b, check the box if the information not provided was "fee and commission information." For all other types of information, check "Other," and enter a description of the information not provided.

20XX Instructions for Schedule C (Form 5500) (Service Provider Information)

General Instructions

Who Must File

Schedule C (Form 5500) must be attached to a Form 5500 filed for pension or welfare benefit plans, master trusts, 103–12 IEs, or GIAs required to file the Form 5500 to report certain information concerning service providers, except as provided below. Remember to check the Schedule C box on the Form 5500 (Part II, Line 11b(3)) and enter the number attached in the space provided to indicate the number of Schedules C attached to the Form 5500.

All plans required to complete a Schedule C must complete a separate Schedule C, in accordance with the instructions, to report the information required for: (1) Each "covered service provider," as defined below, who received $1,000 or more in total direct and indirect compensation (*i.e.*, money or anything else of monetary value) in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts.

A "covered service provider" for Schedule C reporting has the same meaning as "covered service provider" in 29 CFR 2550.408b-2(c)(1)(iii) and includes: (1) Persons who provide services as an ERISA fiduciary directly to the plan; (2) persons who provide services as an ERISA fiduciary to an investment contract, product, or entity that holds plan assets (as determined pursuant to section 3(42) and 401 of the Act and 29 CFR 2510.3–101) and in which the plan has a direct equity investment; (3) persons who provide services to the plan as investment advisers registered under Federal or State law; (4) persons who provide recordkeeping or brokerage services to a participant-directed individual account plan in connection with a designated investment alternative (DIA) (*e.g.*, a "platform provider"); and (5) persons who provide of one or more of the following services to the plan who received indirect compensation from parties other than from the plan or plan sponsor in connection with such services: Accounting, auditing, actuarial, banking, consulting, custodial, insurance, investment advisory, legal, recordkeeping, securities or other investment brokerage, third party administration, or valuation services.

Welfare plans are not subject to the service provider disclosure regulation at 29 CFR 2550.408b-2, but all plans, including welfare plans, that are required to file the Schedule C should use the provisions and definitions 29 CFR 2550.408b-2 as a guide in completing the Schedule C.

Exceptions.

1. Employees of the plan whose only compensation in relation to the plan was less than $25,000 for the plan year. With regard to reporting plan employees' salaries, total salaries (before taxes and other deductions) paid to employees should be used to determine whether an employee has received less than $25,000 during the plan year. Do not include the employer portion of FICA and FUTA taxes as part of the total compensation of an employee. Include salary, bonuses, overtime. Also include indirect compensation from persons other than the plan received in connection with the person's position with the plan or services provided to the plan. Include expenses for travel, educational, conference, meals, etc., whether paid directly by the plan or reimbursed to the employee, only if such payments would be reportable as taxable income to the employee.

2. Employees of the plan sponsor or other business entity where the plan sponsor or business entity is reported on the Schedule C as a service provider, provided the employee did not separately receive reportable direct or indirect compensation in relation to the plan;

3. Persons whose only compensation in relation to the plan consists of insurance fees and commissions listed in a Schedule A filed for the plan;

4. Payments made directly by the plan sponsor that are not reimbursed by the plan. In the case of a multiemployer or multiple-employer plan, where the "plan sponsor" would be the joint board of trustees for the plan, payments by contributing employers, directly or through an employer association, or by participating employee organizations, should be treated the same as payments by a plan sponsor; and

5. Welfare plans, including group health plans, that are required to file the Form 5500 and that do not have to complete the Schedule H because they meet the conditions of the DOL's regulation at 29 CFR 2520.104–44 or Technical Release 92–01, also do not have to file the Schedule C.

Part II of the Schedule C must be completed to report service providers who fail or refuse to provide information necessary to complete Part I of this Schedule.

For plans, GIAs, master trusts, and 103–12 IEs required to file Part I of Schedule C, commissions and fees listed on the Schedule A are not required to be reported again on Schedule C. The amount of the compensation that must be reported on Schedule A must, however, be taken into account in determining whether the service provider's direct or indirect compensation in relation to the plan or DFE meets the Schedule C reporting threshold, thus, requiring the compensation not listed on the Schedule A to be reported on the Schedule C.

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule C is attached.

Do not use a social security number in Line D in lieu of an EIN. The Schedule C and its attachments are open to public inspection, and the contents are public information subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule C or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see *Section 3: Electronic Filing Requirement under General Instructions to Form 5500.* The EBSA does not issue EINs.

Do not list the PBGC or the IRS on Schedule C as service providers.

Either the cash or accrual basis may be used for the recognition of transactions reported on the Schedule C as long as the filer uses one method consistently. The basis used by various service providers may be different from that of the filing plan or DFE, as long as each service provider is also using one method consistently from year to year and providing the information to the plan consistently.

If service provider compensation is reported on a Schedule C filed as a part of a Form 5500 Annual Return/Report filed for a master trust or a 103–12 IE, do not report the same compensation again on the Schedule C filed for the plans that participate in the master trust or 103–12 IE. If a service provider paid or retained by a master trust performs services only for certain of the participating plans, the service provider must be reported on the Schedule C(s) for the plan(s) for which the services were performed; only compensation received in connection with services provided to all plans participating in the master trust should be reported at the master trust level.

Schedule C Reportable Compensation

For Schedule C purposes, reportable compensation includes money and any other thing of value (for example, gifts, awards, trips) received by a person, directly or indirectly, from the plan (including fees charged as a percentage of assets and deducted from investment returns and payments from parties other than the plan) in connection with services rendered to the plan or the person's position with the plan. Amounts are considered to have been received in connection with services rendered to the plan if the person's eligibility for a payment is based, in whole or in part, on services that were rendered to the plan or on a transaction or series of transactions with the plan. This includes any compensation that the covered service provider, an affiliate, or a subcontractor received in connection with termination of the contract or arrangement. Reportable compensation would not include amounts that would have been received had the service not been rendered or the transaction had not taken place and that cannot be reasonably allocated to the services performed or transaction(s) with the plan. The term "person" for this purpose includes individuals, trades and businesses (whether incorporated or unincorporated). See ERISA section 3(9).

Since, in most cases, the "spread" earned by a broker-dealer in a principal transaction would not be commission compensation paid by the covered plan for "services," but instead would be considered "profit" for a non-service transaction, such as a purchase or sale of securities (*i.e.,* where the broker-dealer acts as principal, not as an agent), the "spread" received would not be "compensation" (direct or indirect) for Schedule C purposes. For this purpose, the Department will rely upon the definition of the term "commission" used by the SEC under Section 28(e) of the Securities Exchange Act of 1934, as amended, per SEC Release No. 34–45194.

Similarly, the broker-dealer's sale of IPO securities to the plan does not occur "in connection with" services to the plan, but occurs as a result of a separate, non-service transaction where the broker-dealer is acting as a principal (*e.g.,* a dealer who buys and sells securities from its inventory, as an underwriter or otherwise, and receives a "mark-up" or "spread" on the price vis-a-vis its own separate purchase or sale activities as a dealer). Thus, the broker-dealer is not a service provider to the plan in its role as a securities dealer, and its affiliates who may receive fees for underwriting and/or managing an underwriting syndicate for an IPO would not be receiving such fees "in connection with" services provided to the covered plan.

The investment of plan assets and payment of premiums for insurance contracts are not in and of themselves payments for services rendered to the plan for purposes of Schedule C reporting and the investment and payment of premiums themselves are not reportable compensation for purposes of Part I of the Schedule C.

Direct Compensation—Payments Received from the Plan. Direct compensation for Schedule C purposes has the same meaning as "direct compensation" in 29 CFR 2550.408b–2(c)(1)(viii)(B)(1), and includes payments received directly from the plan by a service provider in connection with services rendered to the plan, or a covered service provider, its affiliate or subcontractor in connection with the services rendered to the plan. Direct compensation includes, for example, direct payments by the plan out of a plan account, charges to plan forfeiture accounts and plan fee recapture trust accounts, charges to a plan's trust account before allocations are made to individual participant accounts, and direct charges to plan participant individual accounts. For example, the plan sponsor may pay for certain plan administrative services by writing a check from the plan account. Alternatively, a covered service provider may be paid a fixed per capita fee from participants' accounts in the covered plan when participants take out plan loans. Payments made by the plan sponsor, which are not reimbursed by the plan, are not subject to Schedule C reporting requirements even if the sponsor is paying for services rendered to the plan. Payments by made by the plan sponsor that are reimbursed by the plan are treated as direct payments by the plan.

Indirect Compensation—Amounts Received from Parties Other Than the Plan or Plan Sponsor. Indirect compensation for Schedule C purposes has the same meaning as "indirect compensation" in 29 CFR 2550.408b–2(c)(1)(viii)(B)(2), and includes compensation received by the covered service provider, an affiliate or subcontractor in connection with the services rendered to the plan from any source other than directly from the plan, plan sponsor, by an affiliate or subcontractor from the covered service provider, or by the covered service provider from an affiliate. Compensation received from a subcontractor is indirect compensation unless it is received in connection with services performed under the subcontractor's contract or arrangement with the covered service provider or an affiliate for performing one or more services provided for by the contract or arrangement with the plan. Indirect compensation includes amounts received by the covered service provider, affiliate or subcontractor that are charged against the investments of the plan (*e.g.,* mutual funds or other investment funds) and reflected in the plan's return on investment.

For example, indirect compensation would include payments that an independent recordkeeper receives from investment issuers to compensate the recordkeeper for administrative services it performs for the investment issuer when those payments are received in connection with investments that such plans make in the issuers' products. If a covered service provider, affiliate or subcontractor receives revenue sharing payments from an investment fund (*e.g.,* mutual fund), investment provider or other plan service provider or person in connection with the services the covered service provider, affiliate or subcontractor rendered to a covered plan, that compensation would be "indirect compensation." Amounts charged against the fund for other ordinary operating expenses of the fund, such as attorneys' fees, accountants' fees, printers' fees, are not reportable indirect compensation received by the attorneys, accountants, or printers for Schedule C purposes. Also, brokerage costs associated with a broker-dealer effecting securities transactions within the portfolio of a mutual fund or for the portfolio of an investment fund that holds "plan assets" for ERISA purposes are not reportable compensation paid to the broker as a plan service provider for Schedule C purposes.

If a service provider charges the plan a fee or commission, but agrees to offset the fee or commission with any revenue received from a party other than the plan or plan sponsor, for example, as part of a commission recapture or other offset arrangement, only the amount paid directly by the plan after any revenue sharing offset should be entered as direct compensation in Line 2. If the amount deposited into the plan's trust account by the record keeper is net of the record keeper's service fees, however, the amount the record keeper retains would be reportable indirect compensation for Schedule C purposes. Amounts paid to persons out of the plan's ERISA fee recapture trust account for services rendered to the plan are considered direct compensation to the receiving service provider reportable in Line 1g. If the record keeper retains the revenue sharing income but reflects some or all of it on the record keeper's accounts as a credit to the plan (as opposed to depositing in the plan's trust account), payments by the record keeper to itself or other persons for rendering services to the plan that reduce the plan's credit balance would be reportable indirect compensation to the persons receiving the payments reportable in Line 3.

Compensation paid among the covered service provider, an affiliate, or a subcontractor, in connection with the services provided to the plan is not reportable indirect compensation. Rather, those payments may be required to be reported as Related Party Compensation on Line 4.

Special rules for non-monetary compensation of insubstantial value,

guaranteed benefit insurance policies, bundled service arrangements, and allocating compensation among multiple plans:

Excludable Non-Monetary Compensation: You may exclude non-monetary compensation of insubstantial value (such as gifts or meals of insubstantial value) that is tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. The gift or gratuity must be valued at less than $50, and the aggregate value of gifts from one source in a calendar year must be less than $250, but gifts with a value of less than $10 do not need to be counted toward the $250 limit. If the $250 aggregate value limit is exceeded, then the value of all the gifts over $10 will be reportable. Gifts received by one person from multiple employees of one entity must be treated as originating from a single source when calculating whether the $50 or $250 threshold applies. On the other hand, gifts received from one person by multiple employees of one entity can be treated as separate compensation when calculating the $50 and $250 thresholds.

These thresholds are for purposes of Schedule C reporting only. Filers are cautioned that gifts and gratuities of any amount paid to or received by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Fully Insured Group Health and Similarly Fully Insured Benefits: Where benefits under a plan are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, and the contract or policy is reported on a Schedule A, payments of reasonable monetary compensation by the insurer out of its general assets to persons for performing administrative activities necessary for the insurer to fulfill its contractual obligation to provide benefits, where there is no direct or indirect charge to the plan for the administrative services other than the insurance premium, would not be treated as indirect compensation for services provided to the plan for Schedule C reporting purposes. This would include compensation for services such as recordkeeping and claims processing provided by a third party pursuant to a contract with the insurer to provide those services, but would not include compensation provided by the insurer incidental to the sale or renewal of a policy, such as finder's fees, insurance brokerage commissions and fees, or similar fees. Insurance investment contracts are not eligible for this exception.

[CAUTION] Allocating Compensation Among Multiple Plans: *Where reportable compensation is received by a person in connection with several plans or DFEs, any reasonable method of allocating the compensation among the plans or DFEs may be used provided that the allocation method is disclosed to the plan administrator. If a such a reasonable method of allocation is used in determining the compensation attributable to the plan, then in calculating the $1,000 and $5,000 thresholds for purposes of determining whether a person must be identified in Part I, the amount of compensation received by the person that is determined to be attributable to the plan or DFE filing the Form 5500 should be used, not the aggregate amount of compensation received in connection with all the plans or DFEs.*

Specific Instructions

Part I—Service Provider Information

Line 1a. As explained above, a separate Schedule C must be filed, in accordance with the instructions, to report the information for: (1) Each covered service provider who received $1,000 or more in total direct and indirect compensation (*i.e.,* money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts.

Enter in Line 1a the covered service provider or other person's name and complete Lines 1a(1)–(6). If the service provider identified is not an individual, provide the name and address for an individual or office at the service provider that the plan could contact for information about the service arrangement in Lines 1a(5)–(6). If the name of an individual is entered in Line 1a and the individual does not have an EIN, enter the EIN of the individual's employer. If the person is self-employed and does not have an EIN, you may enter the person's address and telephone number. Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule C or any of its attachments may result in the rejection of the filing. Also enter the service provider's LEI, if available.

Line 1b. Check the appropriate box to indicate the relationship of the service provider identified in Line 1a to the plan. Check Line 1b(7) "Other" and enter a description, *e.g.,* vice-president of employer, union officer, affiliate of the plan sponsor, recordkeeper, fiduciary, investment manager, etc., if the service provider has a relationship to the plan other than "service provider" that is not one of relationships listed in Line 1b(1)–(6). If the service provider has no relationship to the plan other than the service provider relationship being reported on the Schedule C, check the box in Line 1b(8) for "not applicable."

Line 1c. Types of Services. Check all the appropriate box(es) to describe the types of services provided. The "plan administrator" for purposes of Line 1c is the person who has been designated as the administrator by the terms of the instrument under which the plan is operated; or if no plan administrator is designated, the plan sponsor. See ERISA section 3(16). The plan administrator should be identified in the plan's summary plan description. For most employee benefit plans, the plan administrator is the employer, a committee of employees, a company executive, or in some cases a person or organization hired to be the plan administration. The plan's "third party administrator" often is not the same as the "plan administrator" for this purpose.

Line 1d. Check the box if the person identified in Line 1a was a fiduciary within the meaning of section 3(21) of ERISA during the plan year. Every employee benefit plan must be established and maintained pursuant to a written instrument. The instrument must provide for one or more "named fiduciaries" who jointly or severally have authority to control and management the operation and administration of the plan. Under ERISA section 402(a), "the term named fiduciary means a fiduciary who is named in the plan instrument, or who, under a procedure specified in the plan, is identified as a fiduciary (a) by a person who is an employer or employee organization with respect to the plan or (b) by such an employer and such employee organization acting jointly." Other persons may be functional fiduciaries because they exercise control over plan assets, have discretionary authority for administration or management of the plan, or provide investment advice for a fee.

Line 1e. Check "Yes" if the person identified in Line 1a also was identified on Schedule A as having received insurance fees and commissions.

Line 1f. Check "Yes," if the arrangement with the service provider included the use of an ERISA recapture, ERISA budget or similar account during the plan year.

Line 1g. Check "Yes" in Line 1g(1) if the arrangement with the service provider identified in Line 1a included recordkeeping services to a pension plan without explicit compensation for some or all of such recordkeeping services or with compensation for such recordkeeping offset or rebated in whole or in part based on other compensation received by the service provider, or an affiliate or subcontractor. If "Yes," use the same methodology to develop a dollar estimate of the cost to the plan of recordkeeping services provided in the service provider's 408–b(2) disclosure, enter in Line 1g(2), as a dollar figure, the amount of compensation the service provider received for recordkeeping services.

Line 2—Direct Compensation. Report the amount of direct compensation received by the person or covered service provider (including its affiliate or subcontractor) identified in Line 1a.

TIP. The total reported in Line 2 generally would be those payments that would be includable as administrative expenses on Schedule H, Line 2i. Do not leave Line 2 blank. If no direct compensation was received, enter "0".

Line 3—Indirect Compensation. Complete Line 3 to report indirect compensation received by the covered service provider, affiliate or subcontractor from persons other than the plan or plan sponsor, including charges against the plan's investments.

Note: You must separately report in Line 4 certain related party compensation paid among the person identified in Line 1a and the affiliate or subcontractor.

Line 3a. Enter the total amount of indirect compensation plan from sources other than the plan or plan sponsor received by the covered service provider, affiliate or subcontractor in connection with services provided to the plan, including charges against the plan's investments. This should equal the total of the amounts or estimates reported on the Line 3b(4) entries.

Line 3b. Complete as many entries (Lines 3b(1)–(6)) as necessary to identify all sources of indirect compensation reported in Line 3a. If the name of an individual is entered in Line 3a and the individual does not have an EIN, enter the EIN of the individual's employer. If the person is self-employed and does not have an EIN, you may enter the person's address and telephone number. Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule C or any of its attachments may result in the rejection of the filing. Also enter the service provider's LEI, if available.

Line 3b(4). Enter as a dollar figure the amount or estimate of compensation received from the source. If an estimate is reported, you must complete Line 3b(6).

Line 3b(5). Types of Compensation. Check all the appropriate box(es) to describe the types of compensation received from the source.

Line 4—Related Party Compensation. You must report on Line 4 as related party compensation any compensation that is paid among the service provider, affiliates and subcontractors in connection with the services rendered to the plan if the amount was set on a per transaction basis, (*e.g.,* commissions, soft dollars, finder's fees or other similar incentive compensation based on business placed or retained) or is charged directly against the plan's investment and reflected in the net value of the investment (*e.g.,* Rule 12b–1 fees, distribution fees, management fees shareholder servicing fees). This does not include compensation received by an employee from his or her employer on account of work performed by the employee. Other revenue sharing payments among the covered service provider, affiliate or subcontractor in connection with the services rendered to the plan do not need to be reported as related party compensation.

Part II—Service Providers Who Fail or Refuse To Provide Information

Line 5. Check the box in Line 5a to identify each covered service provider who you believe failed or refused to provide any of the information necessary to complete Part I of this schedule. In Line 5b describe the information that the service provider failed or refused to provide.

Important Reminder. Before identifying a service provider as a person who failed or refused to provide information, you should contact the service provider to request the necessary information and tell them that you will list them on the Schedule C as a service provider who failed or refused to provide information if they do not provide the necessary information.

On Line 5b, include in the description of the information that the service failed or refused to provide whether you are relying on the exemption at 29 CFR 2550.408b–2(c)(1)(ix) with respect to the failure of any fiduciary or service provider to provide information required to complete Part I of Schedule C.

[CAUTION]. *The failure of certain service providers to provide information needed to complete the annual return/report, including Schedule C, may give rise to a prohibited transaction under section 408(b)(2) of ERISA, see 29 CFR 2550.408b–2(c)(1)(vi), that must be reported on Schedule H, Line 4d and, as applicable, attach a Schedule G.*

20XX Instructions for Schedule D

(Form 5500 DFE/Participating Plan Information)

General Instructions

Who Must File

When the Form 5500 is filed for a Direct Filing Entity (DFE) that is a master trust (MT), 103–12 Investment Entity (103–12 IEs), common/collective trust (CCT), pooled separate account (PSA), or group insurance arrangement (GIA) the Schedule D (Form 5500) is required to provide information about plans participating in the DFE. A Form 5500 Annual Return/Report filed for a CCT, PSA, MT, 103–12 IE, or GIA should be identified as a "DFE" on Part I, Line A(5), of the Form 5500 and the Schedule D box should be checked on the Form 5500, Part II, Line 11b(4). For more information, see instructions for Direct Filing Entity (DFE) Filing Requirements.

Specific Instructions

Lines A, B, C, and D. The information must be the same as reported in Part II of the Form 5500 to which this Schedule D is attached.

Do not use a social security number in Line D in lieu of an EIN. The Schedule D and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule D or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see Section 3: Electronic Filing Requirement under General Instructions to Form 5500. The EBSA does not issue EINs.

Information on Participating Plans

Complete as many repeating entries as necessary to enter the information specified below for all plans invested or participated in the DFE at any time during the DFE year.

[CAUTION] *The administrator of each participating plan is required to provide the CCT, PSA, MT, and 103–12IE with the plan number, name of the plan sponsor and EIN of the plan sponsor being reported on the plan's Form 5500 so that the DFE can timely and accurately complete its Schedule D. Failure to provide that information to the DFE may result in the plan's Form 5500 Annual Return/Report being treated as incomplete and subject to rejection. See 29 CFR 2520.103–9(b).*

Complete a separate Line 1 (elements (a) through (e)) for each plan investing or participating in the DFE.

Line 1a. Enter the name of each plan that invested or participated in the DFE at any time during the DFE year.

Line 1b. Enter the name of the sponsor of each plan investing or participating in the DFE.

Line 1c. Enter the nine-digit EIN and three-digit PN for each plan named in Line 1a. This is the EIN and PN entered on lines 2b and 1b of the plan's Form 5500 or Form 5500–SF. GIAs should enter the EIN of the sponsor of the participating plan listed in Line 1(b) of the Schedule D. Do not use a social security number in lieu of an EIN. The Schedule D and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule D or any of its attachments may result in the rejection of the filing.

Line 1d. Enter the dollar value of each investing plan's interest in the DFE as of the end of the DFE year. GIAs do not complete Line 1d.

1e. If the DFE had investors other than plans that are required to file the Form 5500 or Form 5500–SF, such as governmental plans, "one-participant" plans, or non-plan investors, check the box in Line 1e.

20XX Instructions for Schedule E (Form 5500) ESOP Annual Information

General instructions

Who Must File

Every employer or plan administrator of a pension benefit plan that provides ESOP benefits must file a Schedule E (Form 5500).

Specific Instructions

Lines A, B, C, and D. This information should be the same as reported in Part II of the Form 5500 to which this Schedule E is attached. If necessary, you may abbreviate the plan name to fit the space provided.

Part I Employer Stock Acquired with a Securities Acquisition Loan. A "securities acquisition loan" is an exempt loan to an ESOP to the extent that the proceeds are used to acquire employer securities for the plan.

Line 1a. Enter the number of common shares of employer stock held in the ESOP at the end of the plan year.

Line 1b. Enter the percent of issued and outstanding common stock held in the ESOP at the end of the plan year.

Line 1c. A security is readily tradable on an established securities market if it is traded on a national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 or if it is traded on a foreign national exchange that is officially recognized, sanctioned, or supervised by a governmental authority and the security is deemed by the Securities Exchange Commission as having a "ready market". Treasury Regulations 1.401(a)(35)–1(f)(5)(ii).

Line 1d. Enter the number of shares of common stock that were allocated at the end of the plan year.

Line 1e. Enter the number of shares of common stock that were unallocated at the end of the plan year.

Line 1f. If common stock was released from a loan suspense account, check the appropriate box(es) to indicate the method(s) used. If you check "Other" you must provide a description of the method used.

Line 1g. Check "Yes" if the ESOP holds preferred stock. Under section 409(l)(3) of the Code preferred stock is stock convertible at any time into stock that meets the requirements of sections 409(l)(1) for readily tradable stock or section 409(l)(2) for non-readily tradable stock. The stock must be convertible at a conversion price which (as of the date of acquisition) is reasonable.

If you answered "Yes" and the preferred stock was acquired by the ESOP in a securities acquisition loan, answer Lines 1h–i.

Lines 1h–i. Respond to these questions only if preferred stock was acquired by the ESOP in a securities acquisition loan.

Line 1i. If, for example, the conversion price is variable or incorporates the issuance of stock warrants, a description of the method used must be provided.

Part II Employer Stock Acquired.

Respond to these questions only if during the plan year any non-readily tradable employer securities were purchased by the ESOP, including employer securities acquired with the proceeds from a securities acquisition loan.

Line 2b. For purposes of this form, a party in interest is deemed to include a disqualified person. See Code section 4975(e)(2). See Instructions for Schedule G for the definition of party in interest.

Line 2e. Check the appropriate box and enter the applicable identifying information if a trustee, investment manager, or independent fiduciary directly or indirectly approved the transaction.

Line 2f. Section 401(a)(28(C) of the Code provides that, in order for an ESOP to be a qualified plan under the Code, all valuations of employer securities which are not readily tradable on an established securities market with respect to activities carried on by the plan must be by an independent appraiser.

Line 2g. Check the appropriate box(es) to indicate what valuation approach(es) were used to set the value of the stock acquired. If you check "Other," enter a description.

Part III Securities Acquisition Loans.

Complete Part III only if the ESOP had outstanding securities acquisition loans within the meaning of Code section 4975(d)(3) and ERISA section 408(b)(3) during the plan year. Complete as many Line 3 (elements (a)–(h)) as needed to identify each such loan.

Part IV Other General Information

Line 4b. As described in Code section 409(p), a disqualified person, for purposes of this section, is generally, any person whose deemed-owned shares of the S corporation, as defined in section 409(p)(4)(C), including synthetic equity shares, as defined in Treasury Regulations section 1.409(p)–1(f)(2) are at least ten percent of the deemed-owned shares of the S corporation and that person's synthetic equity shares of the S corporation. In addition, disqualified persons include a person and each of such person's family members, as defined in section 409(p)(4)(D), if the aggregate number of deemed-owned shares of this family group, including synthetic equity, is at least twenty percent of the deemed owned shares of the S corporation and the synthetic equity shares of such persons.

Line 4d(3). Payments in redemption of stock held by an ESOP include reacquisition payments that are used to make benefit distributions to participants or beneficiaries.

20XX Instructions for Schedule G (Form 5500) Financial Transaction Schedules

Who Must File

Large plans, small pension plans that are not exempt from the annual IQPA audit under 29 CFR 104–46 (see instructions to Schedule H, Line 3h(4)), master trusts, 103–12 IEs, and GIAs, must attach Schedule G to their Form 5500 if they are required to file a Schedule H and they have the following to report:

- Loans and/or fixed income obligations in default or determined to be uncollectible as of the end of the plan year,
- Leases in default or classified as uncollectible, and
- Nonexempt transactions that occurred or remained uncorrected during the plan year.

Check the Schedule G box on the Form 5500 (Part II, Line 11b(5)) if you are attaching Schedule G. Complete as many entries as necessary to report the required information.

[CAUTION] *The plans described below, although exempt from certain other financial reporting requirements, are still required to file Schedule G, Part III to report nonexempt transactions:*

- *An unfunded, fully insured, or combination unfunded/insured welfare plan, including group health plans, with 100 or more participants exempt under 29 CFR 2520.104–44 from completing Schedule H.*
- *A plan that is required to file a Form M–1, Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs).*

The Schedule G consists of three parts:

- Part I to report any loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year.
- Part II to report any leases in default or classified as uncollectible.
- Part III to report nonexempt transactions.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule G is attached.

Do not use a social security number in Line D in lieu of an EIN. The Schedule G and its attachments are open to public inspection, and the contents are public information and are subject to publication on the internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule G or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see Section 3: Electronic Filing Requirement under General Instructions to Form 5500. The EBSA does not issue EINs.

Part I—Loans or Fixed Income Obligations in Default or Classified as Uncollectible

List all loans or fixed income obligations in default or determined to be uncollectible as of the end of the plan year or the fiscal year of the GIA, master trust, or 103–12 IE. Include:

- Obligations where the required payments have not been made by the due date;
- Fixed income obligations that have matured, but have not been paid, for which it has been determined that payment will not be made; and
- Loans that were in default even if renegotiated during the year.

The due date, payment amount, and conditions for determining default in the case of a note or a loan are usually contained in the documents establishing the note or loan. A loan is in default when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate.

Line 1. Schedule of Loans in Default or Classified as Uncollectible Complete as many entries as needed to report all loans in default or classified as uncollectible.

Do not report on Line 1 participant loans under an individual account plan with investment experience segregated for each account, that are made according to 29 CFR 2550.408b–1, and that are secured solely by a portion of the participant's vested accrued benefit. Report all other participant loans in default or classified as uncollectible on Part I, and list each loan individually.

CAUTION: *You may not attach an amortization schedule in lieu of completing as many repeating Line 1 entries as necessary to identify loans in default or classified as uncollectible.*

1a. Identity and address of obligor. Enter the name, street address, city, state, and zip code for the obligor. A post office box number may be entered in addition to the street address if the Post Office does not deliver mail to the obligor's street address.

1b. Relationship of Obligor to Plan. Check the appropriate boxes to indicate whether the obligor is a party-in-interest or a plan participant. Also enter a description of the relationship of the obligor to the plan, such as employer, employee organization, plan sponsor, fiduciary, service provider, or other party in or other party-in-interest, (if no relationship, enter "unrelated third party").

1c. Status of Loan. Check to the appropriate box to indicate whether the loan is in default or has been determined to be uncollectible. Generally, loans are considered uncollectible when payment has not been made and there is little probability that payment will be made. The documents establishing the loan normally specify its terms, due date, payment amount, and conditions for determining default. A loan is in default when the borrower is unable to pay the obligation when due. Obligations that require periodic repayment can default at any time.

1d. Original Principal Amount of Loan. Enter original amount of loan.

1e. Original Interest Rate of Loan. Enter original interest rate of the loan. If the original interest rate of the loan was variable, enter in the space provided, a description of the terms of the variable interest rate.

1f. Origination Date. Enter the date the loan originated.

1g. Original Maturity Date. Enter the original maturity date of the loan. If the maturity date was extended to a different date, include the new maturity date in element (l) in the description of steps taken to collect the loan.

1h. Loan Collateral. In Line 1h, check the appropriate box to indicate whether the loan secured by collateral. If you answered "Yes," complete Lines 1h(2) and (3). In Line 1h(2), indicate whether the security interest in the collateral was perfected. In Line 1h(3), enter a description of the collateral type and its value.

1i. Scheduled Payment Frequency. Enter the scheduled payment frequency (*e.g.*, monthly, annually).

1j. Payments Received. Enter the amount of principal and interest payments received during the plan year.

1k. Amount Overdue. Enter separately the principal and interest amounts overdue as of the end of the plan year. Include the amount, of principal and interest that is overdue from previous plan years.

1l. Steps Taken to Collect. Describe what steps have been taken or will be taken to collect overdue amounts, including renegotiation of original terms of the loan.

Line 2—Schedule of Fixed Income Obligations in Default or Classified as Uncollectible.

Complete as many entries as needed to report all fixed income obligations in default or classified as uncollectible.

2a. Identity and address of obligor. Enter the name, street address, city, state, and zip code for the obligor. A post office box number may be entered in addition to the street address if the Post Office does not deliver mail to the obligor's street address.

2b. Relationship of Obligor to Plan. Check the box to indicate whether the obligor is a party-in-interest. Also enter a description of the relationship of the obligor to the plan, such as employer, employee organization, plan sponsor, fiduciary, service provider, or other party in or other party-in-interest (if no relationship, enter "unrelated third party").

2c. Status of Fixed Income Obligation. Check the appropriate box to indicate whether the loan is in default or has been determined to be uncollectible. Generally, fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. The documents establishing the obligation normally specify its terms, due date, payment amount, and conditions for determining default. A fixed income obligation is in default when the obligee is unable to pay the obligation when due. Obligations that require periodic repayment can default at any time.

2d. Nature of Fixed Income Obligation. Check applicable boxes to indicate the nature of the fixed income obligation. See Schedule H, Line 1b instructions for more information on types of fixed income obligations.

2e. Date of issuance. Enter the date the fixed income obligation was issued.

2f. Maturity date. Enter the original maturity date of the obligation. If the maturity date was extended to a different date, include the new maturity date in the description of steps taken to collect the obligation in element (l).

2g. Yield/Interest Rate. Enter yield or interest rate for the obligation provided for in the note or contract establishing the obligation.

2h. Principal amount of fixed income obligation. Enter the principal amount of the obligation at the time the plan entered into the transaction.

2i. Amount Overdue. Enter separately the principal and interest amounts overdue as of the end of the plan year. Include the amount of principal and interest that is overdue from previous plan years.

2j. Steps Taken to Collect. Enter a description of what steps the plan administrator has taken or will be taking to collect overdue amounts for each loan.

Part II Leases in Default or Classified as Uncollectible.

List any leases in default or classified as uncollectible. A lease is an agreement conveying the right to use property, plant, or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made.

3a. Identity and address of obligor. Enter the name, street address, city, state, and zip code for the obligor. A post office box number may be entered in addition to the street address if the Post Office does not deliver mail to the obligor's street address.

3b. Relationship of Obligor to Plan. Check the appropriate boxes to indicate whether the obligor is a party-in-interest or a plan participant. Also enter a description of the relationship of the obligor to the plan, such as employer, employee organization, plan sponsor, fiduciary, service provider, or other party-in-interest (if no relationship, enter "unrelated third party").

3c. Status of Lease. Check to the appropriate box to indicate whether the lease is in default or has been determined to be uncollectible. Generally, leases are considered uncollectible when payment has not been made and there is little probability that payment will be made. The documents establishing the lease normally specify its terms, due date, payment amount, and conditions for determining default. A lease is in default when the lessee is unable to pay the obligation when due. Obligations that require periodic repayment can default at any time.

3d. Address of Leased Property. You must enter the name, street address, city, state, and zip code of the leased property. You may not use a post office box.

3e. Date of Lease Origination. Enter date of lease origination.

3f. Original Cost of Leased Property. Enter the cost to acquire the property.

3g. Current Value of Leased Property at Time of Lease. Enter the value of the leased property at time the plan entered into the lease.

3h. Annual Lease Payments Due. Enter the gross rental amounts due during the plan year.

3k. Scheduled Payment Frequency. Indicate the lease payment schedule, *i.e.*, monthly, annually.

3l. Lease Expiration Date: Enter the lease expiration date.

3m. Amount In Arrears. Enter the amount of payments under the lease that are in arrears.

3n. Steps Taken to Collect. Enter an explanation of what steps the plan administrator has taken or will be taking to collect overdue amounts for each lease listed.

Part III Nonexempt Transactions

You must report all nonexempt party-in-interest transactions, regardless of whether they are disclosed in the accountant's report, unless the nonexempt transaction is:

1. Statutorily exempt under Part 4 of Title I of ERISA;
2. Administratively exempt under ERISA section 408(a);
3. Exempt under Code sections 4975(c) or 4975(d);
4. The holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01;
5. A transaction of a 103–12 IE with parties other than the plan; or
6. A delinquent participant contribution or a delinquent participant loan repayment reported on Schedule H, Line 4a.

Nonexempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. A receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

For purposes of this form, party-in-interest is deemed to include a disqualified person. See Code Section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of:

(1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation,

(2) the capital interest or the profits interest of a partnership, or

(3) the beneficial interest of a trust or unincorporated enterprise that is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of:

(1) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

(2) the capital interest or profits interest of such partnership, or

(3) the beneficial interest of such trust or estate is owned directly or indirectly, or held by, persons described in A, B, C, D, or E;

H. An employee, officer, director (or individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder, directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venture of a person described in B, C, D, E, or G.

If you are unsure whether a transaction is exempt or not, you should consult with either the plan's independent qualified public accountant or legal counsel or both.

You may indicate that an application for an administrative exemption is pending.

If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, the disqualified person must file an IRS Form 5330, *Return of Excise Taxes Related to Employee Benefit Plans,* to pay the excise tax on the transaction.

4a. Identity and Address of Party Involved in Non-exempt Transaction. Enter the name, street address, city, state, and zip code for the obligor. A post office box number may be entered in addition to the street address if the post office does not deliver mail to the obligor's street address.

4b. Relationship to Plan. Enter a description of the relationship of the party involved in the transaction to the plan, such as employer, employee organization, plan sponsor, fiduciary, service provider, or other party-in-interest.

4c. Type of Nonexempt Transaction. Check all of the boxes that apply to the nonexempt transaction.

4d. Nature of Transaction. Check the appropriate box to indicate the nature of the transaction. A transaction is a discrete transaction if it was a single occurrence that did not continue in time, for example, the sale of property between a plan and a party-in-interest is a discrete transaction. An ongoing transaction is one that is continuous over a period of time, such as a lease or other obligation that requires regular payments for a continuing time period.

4e. Date of Transaction. Enter the date the transaction occurred or was entered into. If ongoing, enter the date of the commencement or first instance.

4f. Principal Amount Of Nonexempt Transaction. Enter the principal amount of the transaction.

4g. Net Gain (Or Loss) On the Transaction. Enter the net gain (or loss) on the transaction.

4h–j. Correction of Transaction. Check the appropriate box to indicate whether the transaction has been corrected, and if so, when and how the transaction was corrected. The DOL Voluntary Fiduciary Correction Program (VFCP) describes how to apply the specific transactions covered (for example, delinquent participation contributions to pension and welfare plans) and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of Prohibited Transaction Exemption (PTE) 2002–51 are eligible for immediate relief from payment of certain prohibited excise taxes for certain corrected transactions, and are also relieved from the obligation to file the Form 5330 with the IRS. For more information, see 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). If conditions of PTE 2002–51 are satisfied, corrected transactions should be treated as exempt under Code section 4975(c) when answering Schedule G, Part III. Information about the VFCP is also available on the internet at *www.dol.gov/ebsa.*

4k. Filing of Form 5330 and Payment of Excise Taxes. Check the appropriate box to indicate whether a Form 5330 with payment of excise taxes to the IRS was required and if so, whether the Form 5330 was in fact filed.

20XX Instructions for Schedule H (Form 5500) (Financial Information)

General Instructions

Who Must File

Schedule H (Form 5500) must be attached to a Form 5500 filed for any pension or welfare benefit plan required to file the Form 5500, unless subject to one of the exceptions listed below or permitted to file the Form 5500–SF. Master trusts, CCTs, PSAs, 103–12 IEs, and GIAs also must complete as part of their Form 5500 Annual Return/Report filing some or all of the Schedule H, depending on type of entity filing. See the instructions to the Form 5500 in *Section 4: Direct Filing Entity (DFE) Filing Requirements.*

Exceptions: (1) Fully insured, unfunded, or a combination of unfunded/insured welfare plans, including plans that provide health benefits, and fully insured pension plans that meet the requirements of 29 CFR 2520.104–44, are exempt from completing the Schedule H.

(2) Plans that are eligible to file and in fact file a Form 5500–SF for the 20**XX** plan year are not required to file a Schedule H for that year. See *What To File.* and Instructions for Form 5500–SF.

Check the Schedule H box on the Form 5500 (Part II, Line 11b(1)) if a Schedule H is attached to the Form 5500.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule H is attached.

Do not use a social security number in Line D in lieu of an EIN. The Schedule H and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule H or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see *Section 3: Electronic Filing Requirement under General Instructions to Form 5500.* The EBSA does not issue EINs.

Part I—Asset and Liability Statement

Note. The cash, modified cash, or accrual basis may be used for recognition of transactions in Parts I and II, as long as you use one method consistently. Round off all amounts reported on the Schedule H to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

If the assets of two or more plans are maintained in a fund or account that is not reported on lines 1b(6) through 1b(8), complete Parts I and II of the Schedule H by entering the plan's allocable part of each line item.

If assets of one plan are maintained in two or more trust funds, report the combined financial information in Parts I and II.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at time of the determination. See ERISA section 3(26).

Note. Amounts reported in column (a) must be the same as reported for the end of the plan year for corresponding line items of the return/report for the preceding plan year. Do not include contributions designated for the 20**XX** plan year in column (a).

1a(1). Employer contributions. Noncash basis filers must include contributions due the plan by the employer but not yet paid. Do not include other amounts due from the employer such as the reimbursement of an expense or the repayment of a loan.

1a(2). Participant contributions. Noncash basis filers must include contributions withheld by the employer from participants and amounts due directly from participants that have not yet been received by the plan. Do not include the repayment of participant loans.

1a(3). Notes receivable from participants (participant loans). Enter the current value of all loans to participants, including residential mortgage loans that are subject to Code section 72(p). Include the sum of the value of the unpaid principal balances, plus accrued but unpaid interest, if any, for participant loans made under an individual account plan with investment experience segregated for each account, which are made in accordance with 29 CFR 2550.408b–1 and secured solely by a portion of the participant's vested accrued benefit. When applicable, combine this amount with the current value of any other participant loans. Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)–1, if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and
2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If both of these circumstances apply, report the loan as a deemed distribution on Line 2g. However, if either of these circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included in column (b) without regard to the occurrence of a deemed distribution.

Note. After a participant loan that has been deemed distributed is reported on Line 2g, it is no longer to be reported as an asset on Schedule H unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulations section 1.411(a)-7(d)(5). See Q&As 12 and 19 of Treasury Regulations section 1.72(p)-1.

The entry on Line 1a(3), column (b), of Schedule H (participant loans—end of year) must include the current value of any participant loan that was reported as a deemed distribution on Line 2h for any earlier year if the participant resumes repayment under the loan during the plan year. In addition, the amount to be entered on Line 2h must be reduced by the amount of the participant loan that was reported as a deemed distribution on Line 2h for the earlier year.

Line 1a(4). Other Receivables. Noncash basis filers must include amounts due to the plan that are not includable in Lines 1a(1), 1a(2), and 1a(3). These amounts may include investment income earned but not yet received by the plan and other amounts due to the plan such as amounts due from the employer or another plan for expense reimbursement or from a participant for the repayment of an overpayment of benefits.

Line 1b(1). Total noninterest-bearing cash. Total noninterest bearing cash includes, among other things, cash on hand or cash in a noninterest bearing checking account.

1b(2). Interest-bearing cash and cash equivalents. Include all assets that earn interest in a financial institution account, such as interest bearing checking accounts, passbook savings accounts in Line 1b(2)(A). Report certificates of deposit on Line 1b(2)(B). Report money market accounts on Line 1b(2)(C).

Line 1b(3). Debt Interests/Obligations. Enter in the appropriate categories any debt interests/obligations held directly by the plan.

Line 1b(3)(A). U.S. Government securities. Include securities issued or guaranteed by the U.S. Government or its designated agencies such as U.S. Savings Bonds, Treasury Bonds, Treasury Bills, Federal National Mortgage Association (FNMA), and Government National Mortgage Association (GNMA).

Line 1b(3)(B). Other government securities. Include here state and municipal bonds. Report bonds issued by foreign governments in Line 1b(13).

Line 1b(3)(C). Corporate debt instruments (other than employer securities). Include investment securities (other than employer securities defined below in Line 1c(1)) issued by a corporate entity at a stated interest rate repayable on a particular future date such as most bonds, debentures, convertible debentures, commercial paper and zero coupon bonds. Do not include debt securities of governmental units that should be reported on Line 1b(3)(A). For purposes of the breakouts on Line 1b(3)(C)(i) and (ii), investment-grade debt-instruments are those with an S&P rating of BBB—or higher, a Moody's rating of Baa3 or higher, or an equivalent rating from another rating agency. High-yield debt instruments are those that have ratings below these rating levels. If the debt does not have a rating, it should be included in the "high-yield" category if it does not have the backing of a government entity. Unrated debt with the backing of a government entity would generally be included in the "investment-grade" category unless it is generally accepted that the debt should be considered as "high-yield." Use the ratings in effect as of the beginning of the plan year. See the instructions for Schedule R, Line 18.

Line 1b(3)(D). Exchange Traded Notes. Report here unsecured, unsubordinated debt securities that are traded on an exchange and that are not registered investment companies under the Investment Company Act of 1940.

Line 1b(3)(E). Asset backed securities (other than real estate). An asset-backed security generally is one that is collateralized by a discrete pool of assets (such as loans or receivables) and that makes payments based primarily on the performance of those assets. Do not include here securities backed by real estate or real estate-related loans.

Line 1b(3)(F). Other debt instruments. Include here, debt instruments not otherwise includable in Lines 1a(3) (participant loans), 1b(3)(A)–(E), 1b(9)(E) (mortgage-backed securities) or 1b(9)(G) (*e.g.*, construction and mortgage loans).

Line 1b(4). Corporate Stocks (Other than Employer Securities, Private Equity, and Foreign Investments). Include here publicly traded and non-publicly traded domestic equities owned directly by the plan. Do not include employer securities, foreign stocks, or private equity here.

Line 1b(4)(A). Publicly Traded Corporate Stocks. Enter in element (i) the total value of all "preferred" corporate stock that is publicly traded. Include stock issued by corporations (other than employer securities defined in Line 1c(1) below) that is accompanied by preferential rights such as the right to share in distributions of earnings at a higher rate or which has general priority over the common stock of the same entity. Include the value of warrants convertible into preferred stock. Enter in element (ii) the total value of all "common" corporate stock that is publicly traded. This includes any stock (other than employer securities defined in Line 1c(1)) that represents regular ownership of the corporation and is not accompanied by preferential rights. Include the value of warrants convertible into common stock.

Line 1b(4)(B). Corporate Stocks That Are Not Publicly Traded. Enter in element (i) the total value of nonpublicly traded preferred stock and in element (ii) the total value of nonpublicly traded common stock. See instructions for Line 1b(4)(A) for a description of "preferred" and "common" stock.

Line 1b(5). Registered Investment Companies (Mutual funds, Unit Investment Trusts, Closed End Funds). A registered investment company is an investment company registered under the Investment Company Act of 1940. These are mutual funds (legally known as open-end companies), closed-end funds (legally known as closed-end companies), and unit investment trusts (UITs) (legally known as unit investment trusts).

Lines 1b(6)(A) and (B). Interests in CCTs and PSAs. Enter information, in the appropriate elements as of the beginning and end of the filing plan or DFE year, about interests in PSAs and CCTs, regardless of whether the CCT or PSA has filed its own Form 5500 Annual Return/Report.

CAUTION: *The plan's or DFE's interest in common/collective trusts (CCTs) and pooled separate accounts (PSAs) must be allocated and reported in the appropriate categories on an investment by investment basis on the Line 4i Schedules, with the box checked to identify that the investment was held through a CCT or PSA, unless the CCT or PSA has filed its own Form 5500, including Schedule H, and the Line 4i(1) Schedule of Assets Held for Investment at End of Year. See instructions for Line 4i(1) Schedule of Assets Held for Investment at End of Year, element (a).*

Note. For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3–101(h)(1)(iii) does not constitute a PSA.

Line 1b(6)(C). Interests in 103–12 investment entities (103–12 IEs). Enter the total value of the plan's interest in all 103–12 IEs on Line 1b(6)(C)(1)(a).

Line 1b(6)(D). Master Trust. Enter the total value of the plan's interest in all master trusts on Line 1b(6)(D)(1)(a).

CAUTION. *If the plan participated in a master trust, it must separately list on the Line 4i(1) Schedule of Assets Held for Investment at End of Year all of the master trust assets in which the plan had a proportionate interest, indicating that the asset was held through the master trust. See instructions for Line 4i(1) Schedule of Assets Held for Investment at End of Year, element (a).*

Line 1b(7). Value of Interest in Funds Held in Insurance General Account (Unallocated Contracts). Use the same method for determining the value of the insurance contracts reported here as you used for Line 3 of Schedule A, or, if Line 3 is not required, Line 6 of Schedule A.

Line 1b(8). Partnership and Joint Venture Interests. Enter in the appropriate element information about partnership and joint venture interests.

Line 1b(8)(A)(1). Value of Interest in Limited Partnerships. Include the value of the plan's participation in a partnership or joint venture regardless of whether the underlying assets of the partnership or joint venture are considered to be plan assets under 29 CFR 2510.3–101. Do not include here the value of a plan's interest in a partnership or joint venture that satisfies all of the requirements for being a 103–12 Investment Entity (103–12 IE), including the requirement that such an entity timely files its own Form 5500 Annual Return/Report and associated schedules and attachments. Report the value of a 103–12 IE on Line 1b(6)(C). Partnerships and joint ventures should be reported in one of the partnership/joint venture categories where it fits best, or in another category where it fits better. For example, a real estate partnership that does not fit into one of the other real estate reporting categories would be reported on proposed Line 1c(9)(G) and a joint venture that invests in foreign investments would be reported in the appropriate subcategory in Line 1b(13).

Line 1b(8)(A)(2). Value of Interest in Venture Capital Operating Companies (VCOC). A "venture capital operating company" is an operating company that meets the conditions of 29 CFR 2510.3–101(d).

Line 1b(8)(A)(3). Private Equity. Include on this line private equity stakes and interests in private equity funds. "Private equity fund" is commonly used to describe privately managed pools of capital that invest in companies that typically are not listed on a stock exchange. Report stock ownership of non-publicly traded corporate stocks that are not private equity investments on Line 1b(4)(B).

Line 1b(8)(A)(4). Hedge Funds. The term "hedge fund" is commonly used to describe pooled investment vehicles that are privately organized and administered by professional managers who engage in active trading of various types of securities, commodity futures, options contracts, and other investment vehicles, including relatively illiquid and hard-to-value investments.

Line 1b(8)(A)(5). Other Partnership/Joint Venture Interests. Report here any other partnership or joint venture interests in which the plan has invested that are not reported on lines 1b(8)(A)–(D).

Line 1b(8)(B). Plan Asset Status Under DOL Regulation 29 CFR 2510.3–101. Enter into Line 1b(8)(B)(i) the total of all partnerships/joint venture interests reported in Line 1b(8)(A) that do not hold plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101. In Line 1b8(B)(2) enter the total partnership/joint venture interests that hold plan assets under the DOL's plan asset regulation at 29 CFR 2510.3–101. To avoid double-counting, do not include amounts reported on Line 1b(8)(B)(1) and (2) in the total assets reported on Line 1f.

Line 1b(9). Real Estate Investments (Other Than Employer Real Property). Enter information about real estate and real estate based interests in the appropriate element.

Line 1b(9)(A)–(B). Real property (Other Than Employer Real Property). Report here direct ownership interest of the plan in real property other than employer real property in the appropriate category.

Line 1b(9)(C)–(D). Real Estate Investment Trusts (REITs). Report here entities that invest in real estate that are REITs as set forth in Code § 856.

Line 1b(9)(E). Mortgage-Backed Securities (Including Collateralized Mortgage Obligations). Report here all types of mortgage-backed securities, which generally are debt obligations that represent claims to the cash flows from pools of mortgage loans, most commonly on residential property. Collateralized mortgage obligations (CMOs) are one type of mortgage-backed security.

Line 1b(8)(F). Real Estate Operating Company (REOC). Report here investments in "real estate operating companies" (REOCs). A REOC is an operating company that meets the conditions of 29 CFR 2510.3–101(e).

Line 1b(9)(G). Other real estate related investments. Include here any residential mortgages that are not covered under IRC 72(p), commercial mortgages, construction loans, and any other real estate-related investments not includable on lines 1b(9)(A)-(F) that are not employer real property reportable on Line 1c(2) or buildings or other property used in plan operations reportable on Line 1d.

Line 1b(10). Commodities (Direct investments). Enter direct investments in commodities on Line 1b(10). Enter total value of precious metals in Line 1b(10)(A) and the total value of all other commodities in Line 1b(10)(B).

Line 1b(11). Derivatives. Enter information about direct investments in derivatives in the appropriate element in Line 1b(11). Derivatives include futures, forwards, options, and swaps. Enter a description for any derivatives reported in Line 1b(11)(E) "Other."

Line 1b(12). Tangible personal property (including collectibles). Enter the total value of any collectibles or other personal property owned by the plan. Include all property that has concrete existence and is capable of being processed, such as goods, wares, merchandise, furniture, machines, equipment, animals, automobiles, etc. This includes collectibles, such as works of art, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, musical instruments, and historical objects (documents, clothes, etc.). Do not include any intangible property, such as patents, copyrights, goodwill, franchises, notes, mortgages, stocks, claims, interests, or other property that embodies intellectual or legal rights.

Line 1b(13). Foreign investments (Other than through U.S.-registered investment funds). Enter information about foreign investments in the appropriate element. Do not include the value of U.S.-based pooled investment vehicles that are designed to invest in foreign securities. Instead, report such pooled investment vehicles in the appropriate categories on Line 1b(5)-(7).

Line 1b(14). Participant-directed brokerage accounts. Report assets held through participant-directed brokerage accounts in the appropriate sub-elements on Line 1b(14). Report in the aggregate all other investments through participant-directed brokerage accounts, that are not reportable in the separate categories in Lines 1b(14)(A)-(F), including stocks, bonds, registered investment funds, etc., on Line 1b(14)(G).

Line 1c(1). Employer securities. An employer security is any security issued by an employer (including affiliates) of employees covered by the plan. These may include common stocks, preferred stocks, bonds, zero coupon bonds, debentures, convertible debentures, notes, and commercial paper. Report in the appropriate category any types of employer securities held by the plan.

Line 1c(2). Employer real property. The term "employer real property" means real property (and related personal property) that is leased to an employer of employees covered by the plan, or to an affiliate of such employer. For purposes of determining the time at which a plan acquires employer real property for purposes of this line, such property shall be deemed to be acquired by the plan on the date on which the plan acquires the property or on the date on which the lease to the employer (or affiliate) is entered into, whichever is later.

Line 1d. Buildings and other property used in plan operation. Include the current (not book) value of the buildings and other property used in the operation of the plan. Report in 1c(9) and 1c(2), as applicable, rather than Line 1d, buildings or other property held as plan investments that are not used in the operation of the plan.

Line 1e. Other. Include all other investments not includable in lines 1b through 1d and enter a description.

Line 1f. Total assets. Add all amounts in lines 1a through 1e.

Note. Do not include the value of future pension payments on lines 1g, h, i, j, or k.

Line 1g. Benefit claims payable. Noncash basis plans must include the total amount of benefit claims that have been processed and approved for payment by the plan. Include welfare plan "incurred but not reported" (IBNR) benefit claims on this line.

Line 1h. Operating payables. Noncash basis plans must include the total amount of obligations owed by the plan which were incurred in the normal operations of the plan and have been approved for payment by the plan but have not been paid.

Line 1i. Acquisition indebtedness. "Acquisition indebtedness," for debt-financed property other than real property, means the outstanding amount of the principal debt incurred:

1. By the organization in acquiring or improving the property;
2. Before the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property; or
3. After the acquisition or improvement of the property if the debt was incurred only to acquire or improve the property and was reasonably foreseeable at the time of such acquisition or improvement. For further explanation, see Code section 514(c).

Line 1j. Other liabilities. Noncash basis plans must include amounts owed for any liabilities that would not be classified as benefit claims payable, operating payables, or acquisition indebtedness and enter a description of such liabilities.

Line 1k. Total liabilities. Add all amounts in lines 1g through 1k.

Net Assets

Line 1l. Net assets. Enter the net assets as of the beginning and end of the plan year. (Subtract Line 1k from Line 1f.) The entry in column (b) must equal the sum of the entry in column (a) plus Lines 2k and 2l(1), minus 2l(2).

Part II Income and Expense Statement

Line 2. Plan income, expenses, and changes in net assets for the year. Include all income and expenses of the plan, including any trust(s) or separately maintained fund(s) and any payments/receipts to/from insurance carriers. Round off amounts to the nearest dollar. Master trusts, CCTs, PSAs, and 103–12 IEs do not complete lines 2a, 2b, 2e, 2f, and 2g.

Line 2a. Contributions. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Note. Plans using the accrual basis of accounting should not include contributions designated for years before the 20XX plan year on Line 2a.

Line 2a (1). Contributions Received or receivable. Enter contributions received, or for accrual basis filers receivable, from employers in element (A), from participants in element (B). In element (C) enter all other contributions received or receivable, including rollovers from other qualified retirement plans.

Line 2a(1)(B). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension benefit plans, participant contributions, for purposes of this item, also include elective contributions under a qualified cash or deferred entities arrangement. (Code section 401(k)).

Line 2a(2). Noncash contributions. Use the current value, at date contributed, of securities or other noncash property.

Line 2a(3). Total contributions. Add Lines 2a(1)(A), (B), (C), and Line 2a(2).

Line 2b. Interest Income on Notes Receivable from Participants (Participant Loans). Enter interest income on participant loans. Also include here interest income on residential mortgage loans to participants under Code § 72(p).

Line 2c. Earnings on Investments. Report in Line 2c(1)(A)-(E) the total interest paid directly to the plan by the issuer . Report the total of all other earnings on debt interests or obligations in Line 2c(1)(F).

Report in Line 2c(2)(A) the total dividends on corporate stocks (other than employer securities) paid directly to the plan by the issuer of any corporate stocks. Report the total of all other earnings on corporate stocks in Line 2c(2)(B).

In Line 2c(1)-(6), report the total of all earnings by asset type, including interest, dividends, gain (loss) on sale of property, unrealized appreciation (depreciation), and, if the asset has been sold during the plan year, the net investment gain (loss), as appropriate for asset type.

Interest includes interest earned on interest-bearing cash, including earnings from sweep accounts, STIF accounts, money market accounts, certificates of deposit, government securities etc.

For accrual basis plans, include any dividends declared for stock held on the date of record, but not yet received as of the end of the plan year.

Generally, rents represent the income earned on the real property. Include "rent" reporting as part of earnings as a "Net" figure. Net rents are determined by taking the total rent received and subtracting all expenses directly associated with the property. If the real property is jointly used as income producing property and for the operation of the plan, net that portion of the expenses attributable to the income producing portion of the property against the total rents received.

Net gain (loss) on sale of assets equals the sum of the net realized gain (or loss) on each asset held at the beginning of the plan year which was sold or exchanged during the plan year, and on each asset that was both acquired and disposed of within the plan year.

Note. As current value reporting is required for the Form 5500 Annual Return/Report, assets are revalued to current value at the end of the plan year. For purposes of this form, the increase or decrease in the value of assets since the beginning of the plan year (if held on the first day of the plan year) or their acquisition date (if purchased during the plan year) is included as part of total earnings for particular assets.

The sum of the realized gain (or loss) of assets sold or exchanged during the plan year is to be calculated as follows:

1. Include for each category of asset in Line 2c, where applicable, the sum of the amount received for these former assets;
2. Include for each category of asset in Line 2c, the sum of the current value of these former assets as of the beginning of the plan year and the purchase price for assets both acquired and disposed of during the plan year.

If entering a negative number, enter a minus sign "–" to the left of the number.

Note. Bond write-offs should be reported as realized losses.

To calculate total unrealized appreciation of assets in each category subtract the current value of assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of assets at the end of the year to obtain this figure. If entering a negative number, enter a minus sign "–" to the left of the number.

Line 2d. Total income. Add all **income** amounts (c) and enter total in the space provided.

Line 2e(1). Include the current value of all cash, securities, or other property at the date of distribution. Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of section 401(a)(31)(E)).

2e(2). Include payments to insurance companies and similar organizations, managed care organizations, and health maintenance organizations for the provision of plan benefits (*e.g.*, paid-up annuities, accident insurance, health insurance, vision care, dental coverage, stop-loss insurance whose claims are paid to the plan (or which is otherwise an asset of the plan)), etc.

2e(3). Include all payments made to other organizations or individuals providing benefits. Generally, these are individual providers of welfare benefits such as legal services, day care services, training, and apprenticeship services.

Line 2f. Corrective Distributions. Include on this line all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under Code section 401(k)(8), and excess aggregate contributions under Code section 401(m)(6). Include allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or returned to employees during the plan year, as well as any attributable income that was also distributed.

Line 2g. Certain Deemed Distributions of Participant Loans. Report on Line 2g a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)–1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and
2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan should not be reported on Line 2g. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) must be included on Line 1a(3), column (b) (participant loans—end of year), without regard to the occurrence of a deemed distribution.

Note. The amount to be reported on Line 2g of Schedule H must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on Line 2g for any earlier year. The amount of the required reduction is the amount of the participant loan reported as a deemed distribution on Line 2g for the earlier year. If entering a negative number, enter a minus sign "–" to the left of the number. The current value of the participant loan must then be included in Line 1a(3), column (b), of Schedule H (Notes receivable from participants)

Although certain participant loans deemed distributed are to be reported on Line 2g of the Schedule H and are not to be reported on the Schedule H as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. See Q&As 12 and 19 of Treasury Regulations section 1.72(p)–1.

Lines 2h–2j Expenses. Report expenses on the appropriate line items below.

CAUTION. *Master trust expenses that are not allocable to all plans investing in the master trust must be reported at the individual plan level. Only master trust expenses that are reasonably equally attributable to each participating plan may be reported at the master trust level. This includes administrative expenses associated with investments in which not all plans in the master trust have an interest.*

Line 2h. Interest Expense. Interest expense is a monetary charge for the use of money borrowed by the plan. This amount should include the total of interest paid or to be paid (for accrual basis plans) during the plan year.

Line 2i. Administrative Expenses. Report all administrative expenses (by specified category) paid by or charged to the plan, including those that were not subtracted from the gross income of CCTs, PSAs, master trusts, and 103–12 IEs in determining their net investment gain(s) or loss(es). Expenses incurred in the general operations of the plan are classified as administrative expenses. Include, in the appropriate categories in lines 2i(1)–(11), the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for plan salaries and allowances, outside contract administrator, investment advisory and management fees, IQPA audit fees, recordkeeping and other accounting fees, bank or trust company trustee/custodial fees, actuarial fees, legal fees, and valuation/appraisal services.

Line 2i(1). Salaries and Allowances. Report total salaries and expenses for plan employees in Line 2i(1).

Line 2i(2). Contract administrator fees. Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to a contract administrator for performing administrative services for the plan. For purposes of the return/report, a contract administrator is any individual, partnership, or corporation, responsible for managing the clerical operations (*e.g.*, handling membership rosters, claims payments, maintaining books and records) of the plan on a contractual basis. Do not include salaried staff or employees of the plan or banks or insurance carriers.

Line 2i(3). Investment Advisory and Management Fees. Enter the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) to an individual, partnership or corporation (or other person) for advice to the plan relating to its investment portfolio. These may include fees paid to manage the plan's investments, fees for specific advice on a particular investment, and fees for the evaluation for the plan's investment performance.

Line 2i(4). IQPA Audit Fees. Enter in Line 2j(4) fees for the annual audit of the plan by an independent qualified public accountant (IQPA); for payroll audits, and any other audit fees paid by the plan.

Line 2i(5). Recordkeeping and Other Accounting Fees. Include fees for accounting/bookkeeping services other than amounts paid for audit fees reportable in Line 2i(4).

Line 2i(6). Bank or Trust Company Trustee/Custodial Fees. Report here bank or trust company trustee/custodial fees.

Line 2i(7). Actuarial Fees. Include fees for actuarial services rendered to the plan, including preparation of Schedules MB or SB, as applicable.

Line 2i(8). Legal Fees. Include payments to a lawyer for rendering legal opinions, litigation, and advice (but not for providing legal services as a benefit to plan participants).

Line 2i(9). Valuation/appraisal Fees. Include the fee(s) for valuations or appraisals to determine the cost, quality, or value of an item such as real property, personal property (gemstones, coins, etc.), and for valuations of closely held securities for which there is no ready market.

Line 2i(10). Trustee Fees and Expenses. Include the total fees and expenses paid to or on behalf of plan trustees (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year). Include direct payment by the plan or reimbursement by the plan to trustees of expenses associated with trustees such as lost time, seminars, travel, meetings, educational conferences, etc. Do not include in Line 2i(10) amounts paid to plan employees to perform bookkeeping/accounting functions that should be included in Line 2i(5).

Line 2i(11). Other Expenses. Other expenses are those that cannot be included in Lines 2-(1) through 2-(10). These may include plan expenditures such as salaries and other compensation and allowances, expenses for office supplies and equipment, cars, telephone, postage, rent, expenses associated with the ownership of a building used in the operation of the plan, and all miscellaneous expenses. Include premium payments to the PBGC when paid from plan assets.

Line 2i(12)(C). Total Administrative Expenses. Add all administrative expense amounts in column (b) in lines 2i(1) through (11) and enter total (b).

Line 2j. Total expenses. Add all **expense** amounts in column (b) and enter total (b).

Line 2l. Include in these reconciliation figures the value of all transfers of assets or liabilities into or out of the plan resulting from, among other things, mergers and consolidations. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. A transfer is not a shifting of one plan's assets or liabilities from one investment to another. A transfer is not a distribution of all or part of an individual participant's account balance that is reportable on IRS Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc. (See the instructions for Line 2f). Transfers out at the end of the year should be reported as occurring during the plan year.

Note. If this Schedule H is filed for a CCT, PSA, master trust, or 103–12 IE, report the value of all asset transfers to the CCT, PSA, master trust, or 103–12 IE, including those resulting from contributions to participating plans on Line 2l(1), and report the total value of all assets transferred out of the CCT, PSA, master trust, or 103–12 IE, including assets withdrawn for disbursement as benefit payments by participating plans, on Line 2l(2). Contributions and benefit payments are considered to be made to/by the plan (not to/by a CCT, PSA, master trust, or 103–12 IE).

Part III—Accountant's Opinion

Line 3. The administrator of an employee benefit plan who files a Schedule H generally must engage an Independent Qualified Public Accountant (IQPA) pursuant to ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b). This requirement also applies to a Form 5500 Annual Return/Report filed for a 103–12 IE and for a GIA (see 29 CFR 2520.103–12 and 29 CFR 2520.103–2). The IQPA's report must be attached to the Form 5500 when a Schedule H is attached unless you checked Schedule H, Line 3h(1), (2), or (3) or (4).

[CAUTION] *If you checked Schedule H, Line 3h(3) to indicate that the required IQPA's report is not attached to the Form 5500, the filing is subject to rejection as incomplete and penalties may be assessed.*

Notes. (1) An IQPA Report generally consists of an Accountant's Opinion, Financial Statements, Notes to the Financial Statements, and Supplemental Schedules. 29 CFR 2520.103–1(b) requires that any separate financial statements prepared in order for the IQPA to form the opinion and notes to these financial statements must be attached to the Form 5500. Any separate statements must include the information required to be disclosed in Parts I and II of the Schedule H; however, they may be aggregated into categories in a manner other than that used on the Schedule H. The separate statements must consist of reproductions of Parts I and II or statements incorporating by reference Parts I and II. See ERISA section 103(a)(3)(A), and the DOL regulations 29 CFR 2520.103–1(a)(2) and (b), 2520.103–2, and 2520.104–50.

(2) Delinquent participant contributions reported on Line 4a must be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b) for purposes of preparing the IQPA's opinion described on Line 3 even though they are not

required to be listed on Part III of the Schedule G. If the information contained on Line 4a is not presented in accordance with regulatory requirements, *i.e.*, when the IQPA concludes that the scheduled information required by Line 4a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. Delinquent participant contributions that are exempt because they satisfy the DOL Voluntary Fiduciary Correction Program (VFCP) requirements and the conditions of prohibited transaction exemption (PTE) 2002–51 do not need to be treated as part of the schedule of nonexempt party-in-interest transactions.

Lines 3a(1) through 3a(4). These boxes identify the type of opinion offered by the IQPA.

Line 3a(1). Check if an unqualified opinion was issued. Generally, an unqualified opinion is issued when the IQPA concludes that the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the period audited and the changes in its financial status for the period under audit in conformity with generally accepted accounting principles (GAAP) or another comprehensive basis of accounting (OCBOA), *e.g.*, cash basis.

Line 3a(2). Check if a qualified opinion was issued. Generally, a qualified opinion is issued by an IQPA when the plan's financial statements present fairly, in all material respects, the financial status of the plan as of the end of the audit period and the changes in its financial status for the period under audit in conformity with GAAP or OCBOA, except for the effects of one or more matters described in the opinion.

Line 3a(3). Check if a disclaimer of opinion was issued. A disclaimer of opinion is issued when the IQPA does not express an opinion on the financial statements because he or she has not performed an audit sufficient in scope to enable him or her to form an opinion on the financial statements.

Line 3a(4). Check if the plan received an adverse accountant's opinion. Generally, an adverse opinion is issued by an IQPA when the plan's financial statements do not present fairly, in all material respects, the financial status of the plan as of the end of the audit period and the changes in its financial status for the period under audit in conformity with GAAP or OCBOA.

Line 3b. Limited Scope Audit and Certification of Assets. Check "Yes" if a box is checked on Line 3a, and the only limitation on the scope of the plan's audit was pursuant to DOL regulations 29 CFR 2520.103–8 and 2520.103–12(d) because the examination and report of an IQPA did not extend to: (1) statements or information regarding assets held by a bank, similar institution, or insurance carrier that is regulated and supervised and subject to periodic examination by a state or federal agency provided that the statements or information are prepared by and certified to by the bank or similar institution or an insurance carrier, or (2) information included with the Form 5500 filed for a 103–12 IE. The term "similar institution" as used here does not extend to securities brokerage firms (see DOL Advisory Opinion 93–21A). See 29 CFR 2520.103–8 and 2520.103–12(d).

[CAUTION] *Check "No" if the scope of the plan's audit was limited for any reason in addition to that pursuant to DOL regulations 29 CFR 2520.103–8 and 2520.103–12.*

You must attach a copy of the certification(s) if the audit opinion was limited in scope pursuant to DOL regulations 29 CFR 2520.103–8 and 2520.103–12(d) (regardless of whether you checked "yes" for Line 3b). Although you must attach a copy of the certification(s), you do not need to include any attachments to the certification itemizing the assets to which the certification(s) apply.

Note. These regulations do not exempt the plan administrator from engaging an IQPA or from attaching the IQPA's report to the Form 5500. If you check Line 3b, you must also check the appropriate box on Line 3a to identify the type of opinion offered by the IQPA.

Line 3c. Enter the name and EIN of the accountant (or accounting firm) in the space provided on Line 3c. Do not use a social security number or any portion thereof in lieu of an EIN. The Schedule H is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule H may result in the rejection of the filing. If the name of an accounting firm is entered in Line 3c(1), enter the name of the audit engagement partner in Line 1c(3).

Line 3d. Enter the state in which the accountant's opinion was issued.

Line 3e. Check "Yes" if you reviewed and discussed the IQPA report with the accountant preparing the report?

Line 3f. If you answered "Yes," to Line 3e, check all that apply.

Line 3h(1). Check this box only if the Schedule H is being filed for a CCT, PSA, or master trust.

Line 3h(2). Check this box if the plan has elected to defer attaching the IQPA's opinion for the first of two (2) consecutive plan years, one of which is a short plan year of seven (7) months or fewer. The Form 5500 for the first of the two (2) years must be complete and accurate, with all required attachments, except for the IQPA's report, including an attachment explaining why one of the two (2) plan years is of seven (7) or fewer months duration and stating that the annual report for the immediately following plan year will include a report of an IQPA with respect to the financial statements and accompanying schedules for both of the two (2) plan years. The Form 5500 for the second year must include: (a) financial schedules and statements for both plan years; (2) a report of an IQPA with respect to the financial schedules and statements for each of the two (2) plan years (regardless of the number of participants covered at the beginning of each plan year); and (3) a statement identifying any material differences between the unaudited financial information submitted with the first Form 5500 and the audited financial information submitted with the second Form 5500. See 29 CFR 2520.104–50.

Note. Do not check the box on Line 3h(2) if the Form 5500 is filed for a 103–12 IE or a GIA. A deferral of the IQPA's opinion is not permitted for a 103–12 IE or a GIA. If the box for 103–12 IE or GIA is checked on Form 5500, Part I, Line A(5), an IQPA's opinion must be attached to the Form 5500 and the type of opinion must be reported on Schedule H, Line 3a.

Line 3h(4). Small Plan Audit Waiver. Check "Yes" if you are a small plan claiming a waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46. Large plans are not eligible for the audit waiver under 29 CFR 2520.104–46. You are eligible to claim the waiver if this filing is for:

1. A small welfare plan, or
2. A small pension plan for a plan year that began on or after April 18, 2001, that complies with the conditions of 29 CFR 2520.104–46 summarized below.

Note. For plans that check "No," the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards if the information reported on Line 4a is not presented in accordance with regulatory requirements.

The following summarizes the conditions of 29 CFR 2520.104–46 that must be met for a small pension plan with a plan year beginning on or after April 18, 2001, to be eligible for the waiver. For more information regarding these requirements, see the EBSA's Frequently Asked Questions on the Small Pension Plan Audit Waiver Regulation and 29 CFR 2520.104–46, which are available at *www.dol.gov/ebsa*, or call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) (toll-free).

Condition 1: At least 95 percent of plan assets are "qualifying plan assets" as of the end of the preceding plan year, or any person who handles assets of the plan that do not constitute qualifying plan assets is bonded in accordance with the requirements of ERISA section 412 (see the instructions for Line 4e), except that the amount of the bond shall not be less than the value of such non-qualifying assets. The determination of the "percent of plan assets" as of the end of the preceding plan year and the amount of any required bond must be made at the beginning of the plan's reporting year for which the waiver is being claimed. For purposes of this line, you will have satisfied the requirement to make these determinations at the beginning of the plan reporting year for which the waiver is being claimed if they are made as soon after the date when such year begins as the necessary information from the preceding reporting year can practically be ascertained. See 29 CFR 2580.412–11, 14 and 19 for additional guidance on these determinations, and 29 CFR 2580.412–15 for procedures to be used for estimating these amounts if there is no preceding plan year.

The term "qualifying plan assets," for purposes of this line means:

1. Any assets held by any of the following regulated financial institutions:

a. A bank or similar financial institution as defined in 29 CFR 2550.408b-4(c);

b. An insurance company qualified to do business under the laws of a state;

c. An organization registered as a broker-dealer under the Securities Exchange Act of 1934; or

d. Any other organization authorized to act as a trustee for individual retirement accounts under Code section 408.

2. Shares issued by an investment company registered under the Investment Company Act of 1940 (*e.g.*, mutual funds);

3. Investment and annuity contracts issued by any insurance company qualified to do business under the laws of a state;

4. In the case of an individual account plan, any assets in the individual account of a participant or beneficiary over which the participant or beneficiary has the opportunity to exercise control and with respect to which the participant or beneficiary is furnished, at least annually, a statement from a regulated financial institution referred to above describing the assets held or issued by the institution and the amount of such assets;

5. Qualifying employer securities, as defined in ERISA section 407(d)(5); and

6. Participant loans meeting the requirements of ERISA section 408(b)(1).

Condition 2: The administrator must disclose the following information in the summary annual report (SAR) furnished to participants and beneficiaries, in accordance with 29 CFR 2520.104b-10. For defined benefit pension plans that are required pursuant to section 101(f) of ERISA to furnish an Annual Funding Notice (AFN), the administrator must instead either provide the information to participants and beneficiaries with the AFN or as a stand-alone notification at the time a SAR would have been due and in accordance with the rules for furnishing an SAR, although such plans do not have to furnish a SAR.

1. The name of each regulated financial institution holding or issuing qualifying plan assets and the amount of such assets reported by the institution as of the end of the plan year (this SAR disclosure requirement does not apply to qualifying employer securities, participant loans and individual account assets described in paragraphs 4,5 and 6 above);

2. The name of the surety company issuing the fidelity bond, if the plan has more than 5% of its assets in non-qualifying plan assets;

3. A notice that participants and beneficiaries may, upon request and without charge, examine or receive from the plan evidence of the required bond and copies of statements from the regulated financial institutions describing the qualifying plan assets; and

4. A notice that participants and beneficiaries should contact the EBSA Regional Office if they are unable to examine or obtain copies of the regulated financial institution statements or evidence of the required bond, if applicable.

A Model Notice that plans can use to satisfy the enhanced SAR (or Annual Funding Notice) disclosure requirements to be eligible for the audit waiver is available as an Appendix to 29 CFR 2520.104–46.

Condition 3: In addition, in response to a request from any participant or beneficiary, the administrator, without charge to the participant or beneficiary, must make available for examination, or upon request furnish copies of, each regulated financial institution statement and evidence of any required bond.

Examples. Plan A, which has a plan year that began on or after April 18, 2001, had total assets of $600,000 as of the end of the 20**XX–1** plan year that included: investments in various bank, insurance company and mutual fund products of $520,000; investments in qualifying employer securities of $40,000; participant loans (meeting the requirements of ERISA section 408(b)(1)), totaling $20,000; and a $20,000 investment in a real estate limited partnership. Because the only asset of the plan that did not constitute a "qualifying plan asset" is the $20,000 real estate limited partnership investment and that investment represents less than 5% of the plan's total assets, no fidelity bond is required as a condition for the plan to be eligible for the waiver for the 20**XX** plan year.

Plan B is identical to Plan A except that of Plan B's total assets of $600,000 as of the end of the 20**XX–1** plan year, $558,000 constitutes "qualifying plan assets" and $42,000 constitutes non-qualifying plan assets. Because 7%—more than 5%—of Plan B's assets do not constitute "qualifying plan assets," Plan B, as a condition to be eligible for the waiver for the 20**XX** plan year, must ensure that it has a fidelity bond in an amount equal to at least $42,000 covering persons handling its non-qualifying plan assets. Inasmuch as compliance with ERISA section 412 generally requires the amount of the bond be not less than 10% of the amount of all the plan's funds or other property handled, the bond acquired for ERISA section 412 purposes may be adequate to cover the non-qualifying plan assets without an increase (*i.e.*, if the amount of the bond determined to be needed for the relevant persons for ERISA section 412 purposes is at least $42,000). As demonstrated by the foregoing example, where a plan has more than 5% of its assets in non-qualifying plan assets, the required bond is for the total amount of the non-qualifying plan assets, not just the amount in excess of 5%.

If you need further information regarding these requirements, see 29 CFR 2520.104–46 which is available at *www.dol.gov/ebsa* or call the EFAST2 Help Line at 1–866–GO EFAST (1–866–463–3278) (toll-free).

Part IV—Compliance Questions

Lines 4a through 4z. Plans completing Schedule H must answer all these lines with either "Yes" or "No." Do not leave any answer blank, unless otherwise directed. For Lines 4a through 4h and Line 4l, if the answer is "Yes," an amount must be entered.

Report investments in CCTs, PSAs, master trusts, and 103–12 IEs, but not the investments made by these entities. Plans with all of their funds held in a master trust should check "No" on Line 4b and 4c. CCTs and PSAs complete only Line 4i(1). Master trusts and 103–12 IEs complete only Lines 4b, 4c, 4d, 4i(1) and (2), 4j, and 4s. GIAs complete only Lines 4b, 4c, 4d, 4i(1) and (2), 4j, and 4k. Except as otherwise provided, all plans and DFEs that have not checked on Form 5500 that this is the "final" return/report and have indicated that they have no assets ("-0-") must check "Yes" on Line 4i(1) and complete the Line 4i(1) Schedule of Assets Held for Investment at End of Year. Where applicable, they must also check "Yes" on Line 4i(2) and complete the Line 4i(2) Schedule of Assets Disposed of During the Plan Year.

Small welfare plans that are required to complete the Schedule H, do not have to complete the attachments to Line 4(a), Line 4i(1) and (2), and Line 4j, even if the answer to any of those questions is "Yes."

Line 4a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3–102). Plans that check "Yes" must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions should be included on Line 4a of the Schedule H for the year in which the contributions were delinquent and should be carried over and reported again on Line 4a of the Schedule H, for each subsequent year until the year after the violation has been fully corrected, which correction includes payment of the late contributions and reimbursement of the plan for lost earnings or profits. If no participant contributions were received or withheld by the employer during the plan year, answer "No."

An employer holding these assets after that date commingled with its general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on Line 4a in accordance with the reporting requirements that apply to delinquent participant contributions or on Line 4d. See Advisory Opinion 2002–02A, available at *www.dol.gov/ebsa*.

[CAUTION] *Delinquent participant contributions reported on Line 4a should be treated as part of the separate schedules referenced in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b) and 2520.103–2(b) for purposes of preparing the IQPA's opinion described on Line 3 even though they are not required to be listed on Part III of the Schedule G. If the information contained on Line 4a is not presented in accordance with regulatory requirements, i.e., when the IQPA concludes that the scheduled information required by Line 4a does not contain all the required information or contains information that is inaccurate or is inconsistent with the plan's financial statements, the IQPA report must make the appropriate disclosures in accordance with generally accepted auditing standards. For more information, see EBSA's Frequently Asked Questions About Reporting*

Delinquent Contributions on the Form 5500, available on the Internet at www.dol.gov/ebsa. These Frequently Asked Questions clarify that plans have an obligation to include delinquent participant contributions on their financial statements and supplemental schedules and that the IQPA's report covers such delinquent contributions even though they are not required to be included on Part III of the Schedule G. Although all delinquent participant contributions must be reported on Line 4a, delinquent contributions for which the DOL VFCP requirements and the conditions of PTE 2002–51 have been satisfied do not need to be treated as nonexempt party-in-interest transactions.

[TIP] The VFCP describes how to apply, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. In addition, applicants that satisfy both the VFCP requirements and the conditions of PTE 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, see 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). Information about the VFCP is also available on the Internet at *www.dol.gov/ebsa.*

All participant contributions that were delinquent during the plan year must be reported on Line 4a even if violations have been corrected.

Line 4a Schedule of Delinquent Participant Contributions. Complete the "Line 4a Schedule of Delinquent Participant Contributions" if you entered "Yes."

Element (a). Enter the total amount of delinquent contributions from this and previous years that were remitted during the plan year. Include contributions due in previous years that were remitted during this plan year. If you include participant loan repayments on Line 4a, you must apply the same supplemental schedule and IQPA disclosure requirements to the loan repayments as applied to delinquent transmittals of participant contributions. If you include participant loan repayments, check the box in element (g).

Element (b). Enter the total amount of delinquent contributions due, but unremitted during the plan year. You must carry these over and report them for each subsequent year until they are fully correct. Include contributions due in previous plan years, but still unremitted.

Element (c). Enter the number of payrolls for which the contributions were delinquent and uncorrected.

Element (d). Enter in element d(1) the total amount of delinquent contributions that were corrected under VFCP. See 71 FR 20261 (Apr. 19, 2006). Information about the VFCP is also available on the Internet at *www.dol.gov/ebsa.* Enter in element d(2) any amount that were corrected under the VFCP, but not under PTE 2002–51. See 71 FR 20135 (Apr. 19, 2006). For all amount reported in element (d), complete element (h) to indicate whether you filed Form 5330 with the IRS and paid any applicable excise taxes.

Element (e). Enter the amount of delinquent contributions pending correction in VFCP as of the date of the Form 5500 Annual Return/Report filing.

Element (f). Enter the total amount of delinquent contributions for which the contributions were paid and the plan reimbursed fully for lost earnings or profits outside of the VFCP. See the VFCP for more information on how to fully correct delinquent participant contributions.

Element (g). Check the box in element (g) if you included delinquent participant loan repayments on Line 4a and in element (a).

Element (h). Check "Yes" for any amount reported in element (h) if you filed your Form 5330 with the IRS and paid all applicable excise taxes associated with the delinquent contributions and/or delinquent participant loan repayments. For more information on Form 5330, see *http://www.irs.gov/Retirement-Plans/Form-5330-Corner.*

Element (i). Only multiemployer plans complete this item. In element (i)(1), enter the amount of participant contributions from participating employers in the multiemployer plan that has been determined during the plan year to be uncollectible (including contributions due in previous plan years but still unremitted). In element (i)(2), explain what steps were taken to collect overdue amounts (including whether claims were submitted on performance bonds) before determining the amount that is uncollectible.

Line 4b. Plans that check "Yes" must enter the amount and complete Part I of Schedule G. The due date, payment amount and conditions for determining default of a note or loan are usually contained in the documents establishing the note or loan. A loan by the plan is in default when the borrower is unable to pay the obligation upon maturity. Obligations that require periodic repayment can default at any time. Generally, loans and fixed income obligations are considered uncollectible when payment has not been made and there is little probability that payment will be made. A fixed income obligation has a fixed maturity date at a specified interest rate. Do not include participant loans made under an individual account plan with investment experience segregated for each account that were made in accordance with 29 CFR 2550.408b–1 and secured solely by a portion of the participant's vested accrued benefit. Small plans that were eligible for and claimed the small plan audit waiver do not need to attach Schedule G.

Line 4c. Plans that check "Yes" must enter the amount and complete Part II of Schedule G. A lease is an agreement conveying the right to use property, plant, or equipment for a stated period. A lease is in default when the required payment(s) has not been made. An uncollectible lease is one where the required payments have not been made and for which there is little probability that payment will be made. Small plans that were eligible for and claimed the small plan audit waiver do not need to attach Schedule G.

Line 4d. Plans that check "Yes" must enter the amount and complete Part III of Schedule G. Small plans that were eligible for and claimed the small plan audit waiver do not need to attach Schedule G. Check "Yes" if any nonexempt transaction with a party-in-interest occurred regardless of whether the transaction is disclosed in the IQPA's report. Do not check "Yes" or complete Schedule G, Part III, with respect to transactions that are:

(1) Statutorily exempt under Part 4 of Title I of ERISA;

(2) Administratively exempt under ERISA section 408(a);

(3) Exempt under Code sections 4975(c) or 4975(d);

(4) The holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01;

(5) A transaction of a 103–12 IE with parties other than the plan; or

(6) Delinquent participant contributions or delinquent participant loan repayments reported on Line 4a.

Note. See the instructions for Part III of the Schedule G (Form 5500) concerning nonexempt transactions and party-in-interest.

You may indicate that an application for an administrative exemption is pending. If you are unsure as to whether a transaction is exempt or not, you should consult with either the plan's IQPA or legal counsel or both.

[TIP] *Applicants that satisfy the VFCP requirements and the conditions of PTE 2002–51 (see the instructions for Line 4a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the obligation to file the IRS Form 5330 with the IRS. For more information, see 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). When the conditions of PTE 2002–51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering Line 4d.*

Line 4e. Plans that check "Yes" must enter the aggregate amount of fidelity bond coverage for all claims. Check "Yes" only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond from an approved surety covering plan officials and that protects the plan from losses due to fraud or dishonesty as described in 29 CFR part 2580. Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. Generally, a person shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his or her duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR part 2580 describe the bonding requirements, including the definition of "handling" (29 CFR 2580.412–6), the permissible forms of bonds (29 CFR 2580.412–10), the amount of the bond (29 CFR part 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on federal bonds (29 CFR 2580.412–23).

Information concerning the list of approved sureties and reinsures is available on the Internet at *www.fms.treas.gov/c570.* For more information on the fidelity bonding requirements, see Field Assistance Bulletin 2008–04, available on the Internet at *www.dol.gov/ebsa.*

Note. Plans are permitted under certain conditions to purchase fiduciary liability insurance. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and cannot be reported as fidelity bonds on Line 4e.

Line 4f. Check "Yes," if the plan suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If the plan suffered such a loss, enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate and disclose that the figure is an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

CAUTION: *Willful failure to report is a criminal offense. See ERISA section 501.*

Line 4g. Check "Yes" if the plan had assets of which the current value was neither readily determinable on an established market nor set by an independent third party appraiser. Enter in the amount column the fair market value of the assets referred to on Line 4g whose value was not readily determinable on an established market and which were not valued by an independent third-party appraiser in the plan year. Generally, as it relates to these questions, an appraisal by an independent third party is an evaluation of the value of an asset prepared by an individual or firm who knows how to judge the value of such assets and does not have an ongoing relationship with the plan or plan fiduciaries except for preparing the appraisals.

TIP: Do not check "Yes" on Line 4g for mutual fund shares or insurance company investment contracts for which the plan receives valuation information at least annually. Also, do not check "Yes" on Line 4g if the plan is a defined contribution pension plan and the only assets the plan holds, that do not have a readily determinable value on an established market, are: (1) participant loans not in default, or (2) assets over which the participant exercises control within the meaning of section 404(c) of ERISA.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or a named fiduciary, assuming an orderly liquidation at the time of the determination. See ERISA section 3(26). An accurate assessment of fair market value is essential to a pension plan's ability to comply with the requirements set forth in the Code (*e.g.,* the exclusive benefit rule of Code section 401(a)(2), the limitations on benefits and contributions under Code section 415, and the minimum funding requirements under Code section 412) and must be determined annually.

Examples of assets that may not have a readily determinable value on an established market (*e.g.,* NYSE, AMEX, over the counter, etc.) include real estate, nonpublicly traded securities, shares in a limited partnership, derivatives, notes and stock not traded on an exchange, private equity, and collectibles.

Although the current value of plan assets must be determined each year, there is no requirement that the assets (other than certain nonpublicly traded employer securities held in ESOPs) be valued every year by independent third-party appraisers.

Line 4h. Check "Yes" if the plan received during the plan year noncash contributions of which the current value was neither readily determinable on an established market nor set by an independent third party appraiser. Enter in the amount column the fair market value of the assets referred to on Line 4g whose value was not readily determinable on an established market and which were not valued by an independent third-party appraiser in the plan year. See instructions for Line 4g.

Line 4i. Schedules of Assets. Check "Yes" in elements (1) and/or (2) and complete, as appropriate, the "Line 4i(1) Schedule of Assets Held for Investment at End of Year" and the "Line 4i(2) Schedule of Assets Disposed of During the Plan Year." You may not create your own schedules of assets in the form of an attachment or otherwise. You must complete the schedule through IFile or using EFAST-approved third-party software. If the plan both disposed of assets during the plan year and held assets for investment at end of year, you must complete both the Line 4i(1) and 4i(2) schedules. Generally, all plans that are ongoing must answer "Yes" to Line 4i(1) and complete the "Line 4i(1) Schedule of Assets Held for Investment at End of Year."

Notes: (1) Participant loans under an individual account plan with investment experience segregated for each account, that are made in accordance with 29 CFR 2550.408b-1 and that are secured solely by a portion of the participant's vested accrued benefit, may be aggregated for reporting purposes in Line 4i. Under identity of borrower enter "Participant loans," under rate of interest enter the lowest rate and the highest rate charged during the plan year (*e.g.,* 8%–10%), under the cost and proceeds columns enter zero, and under current value enter the total amount of these loans. (2) Column (d) cost information for the Line 4i(1) Schedule of Assets Held for Investment at End of Year and the column (c) cost of acquisitions information for the Line 4i(2) Schedule of Assets Disposed of During the Plan Year may be omitted when reporting investments of an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her account (including a negative election authorized under the terms of the plan). Likewise, cost information for investments in Code sections 403(b)(1) annuity contracts and 403(b)(7) custodial accounts may also be omitted. (3) Investments in Code section 403(b)(1) annuity contracts and Code section 403(b)(7) custodial accounts generally may also be treated as one asset held for investment for purposes on the Line 4i schedules. For 403(b)(7) accounts, show the corresponding Line 1b(5)(A) categories to show the types of investment accounts.

Line 4i(1). Schedule of Assets Held for Investment at End of Year. Assets held for investment purposes for purposes of the Line 4i(1) Schedule of Assets Held for Investment at End of Year includes all investment assets held by the plan on the last day of the plan year other than cash and cash equivalents reported on Line 1b(1) and (2) that are held at end of year. You must complete the Schedule of Assets Held for Investment at End of Year if you answered "Yes" to Line 4(i)(1).

Line 4i(1) Schedule of Assets Held for Investment at End of Year (Complete as many entries in each element as needed to identify all assets held for investment at end of year)

(a) Assets Held directly by the plan (including assets held through an participant-directed brokerage window) For each asset which the plan holds for investment purposes that is not a type of assets required to be listed in (b) through (e) below, complete elements (i)–(vii).

(i) Check if issuer, borrower, lessor or similar party is party-in- interest ☐	(ii) Name of issuer, borrower, lessor, or similar party	(iii) Check if asset is hard-to-value asset	(iv) CUSIP, CIK, LEI, NAIC Company Code, other registration number:	(v) Cost	(vi) Indicate Sch. H, Line 1b asset category	(vii) Description of investment, including, as applicable share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge. See instructions for reporting assets held through a participant-directed brokerage account.

(b) Investments in Master Trust (repeat as many entries as needed to identify holdings in master trusts) For each master trust in which the plan invested, break out plan's proportionate interest in each asset in the master trust(s) in elements (i)–(viii). Do not include master trust holdings in which the plan has no interest.

(i) Enter name, EIN/PN of sponsor of master trust used on master trust's Form 5500.

(ii) Check if issuer, borrower, lessor or similar party is party-in- interest ☐	(iii) Name of issuer, borrower, lessor, or similar party (See instructions)	(iv) Check if asset is hard-to-value asset ☐	(v) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code, other registration number:	(vi) Cost	(vii) Indicate Sch. H, Line 1b asset category	(viii) Description of investment, including, as applicable share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge.

(c) Investments in PSAs and CCTs (repeat as many entries as needed to identify holdings in PSAs and CCTs) If the PSA filed a Form 5500, complete elements (i)–(vii) indicating the value of the plan's shares in the PSA or CCT. For PSAs or CCTs that have not filed a Form 5500, break out plan's proportionate interest in each asset in the PSA of CCT in elements (i)–(ix) and include the name and identifying numbers for the non-filing CCT or PSA, as well a description of the asset held through the non-filing CCT or PSA.

(i) Enter name, EIN/PN of sponsor of CCT/PSA.

(ii) Check if issuer, borrower, lessor or similar party is party-in- interest ☐	(iii) Check here if PSA or CCT filed a Form 5500 ☐	(iv) Name of issuer, borrower, lessor, or similar party (see Instructions).	(v) Check if asset is hard-to-value asset ☐	(vi) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code: Other registration number:	(vii) Cost	(viii) Indicate Sch. H, Line 1b asset category	(ix) Description of investment, including, as applicable share class, maturity date, rate of interest, par or maturity value, and whether asset/investment is subject to surrender charge.

(d) Investments in 102–12 Investment Entities (repeat as many entries as needed to identify holdings in 103–12 IEs)

(i) Enter name, EIN of provider of the 103–12 IE.

(ii) Check if issuer, borrower, lessor or similar party is party-in- interest ☐	(iii) Name of issuer, borrower, lessor, or similar party (See instructions)	(iv) Check if asset is hard-to-value asset ☐	(v) Enter all that apply: EIN, CUSIP, CIK, LEI, NAIC Company Code: Other registration number:	(vi) Cost	(vii) Indicate Line 1b asset category	(viii) Description of investment, including, as applicable share class, maturity date, rate of interest, par or maturity value, including whether asset/investment is subject to surrender charge.

Element (a). Assets Held Directly By the Plan. Investments held by the plan are all assets held by the plan except interests in master trusts; interests in pooled separate accounts (PSAs) and common collective trusts (CCTs), regardless of whether the PSA or CCT files a Form 5500; and interests in 103–12 Investment Entities (103–12 IEs). For each asset held directly by the plan, complete elements (i)–(vii).

Participant-directed brokerage account assets reported in the aggregate on Line 1b(14) generally may be treated as one asset held for investment for purposes here, except investments in tangible personal property, loans, partnership or joint venture interests, real property, employer securities, and investments that could result in a loss in excess of the account balance of the participant or beneficiary who directed the transaction must be reported as separate aggregations of assets on Line 4i(1)(a), with an indication of which of the Line 1b(14) breakouts that the asset was reported as being held through a participant-directed brokerage account.

Element a(ii). Check the box in element a(i) if the issuer of the investment is a person known to be a party-in-interest to the plan. This includes when the seller, issuer, lender, or similar party is the employer, employee organization, a service provider to the plan, or other party interest, including a subcontractor or affiliate.

Element a(iii). Enter the name of the seller, issuer, lender, or similar party. If the person is a plan sponsor, service provider, or direct filing entity also identified on the Form 5500, Schedule C or any other of the Schedule H Line 4 schedules, or is a DFE that files its own Form 5500, use the same name in all places.

Element a(iv). Check here if the asset is a "hard-to-value" asset. Assets that are not listed on any national exchanges or over-the-counter markets, or for which quoted market prices are not available from sources such as financial publications, the exchanges, or the National Association of Securities Dealers Automated Quotations System (NASDAQ), are required to be identified as hard-to-value assets on the Schedule of Assets Held for Investment at End of Year. Bank collective investment funds or insurance company pooled separate accounts that are primarily invested in assets that are listed on national exchanges or over-the-counter markets and are valued at least annually need not be identified as hard-to-value assets. CCTs or PSAs invested primarily in hard-to-value assets must also be identified as a hard-to-value asset. A non-exhaustive list of examples of assets that would be required to be identified as hard-to-value on the proposed schedules of assets is: non-publicly traded securities, real estate, private equity funds; hedge funds; and real estate investment trusts (REITs).

Element a(v). If the person is a plan sponsor, service provider, or direct filing entity also identified on the Form 5500, Schedule C, or Schedule D, or any other of the Schedule H Line 4 schedules, or is a DFE that files its own Form 5500, use the same identification numbers in all places. If the person identified in element (c), has a CUSIP, CIK number, LEI, NAIC Company Code, or other government or market exchange registration or identity number, you must include all that apply here.

Element a(vi). Enter the acquisition cost of the asset.

Element a(vii). Enter in element a(vii) in which category the asset was part of the total on Line 1b.

Element a(viii). Enter a description of the investment, including, as applicable maturity date, rate of interest, par, or maturity value, including whether asset/investment is subject to surrender charge. Include any restriction on transferability of corporate securities. (Include lending of securities permitted under Prohibited Transactions Exemption 81–6.)

Element (b)—Investments in Master Trusts. For each master trust in which the plan invested, complete elements (b)(ii)–(vi) for each asset in which the plan had an interest. Do not include assets held by the master trust in which the plan does not hold an interest.

Example. A master trust in which Plan A, Plan B, and Plan C invest, has various assets, including a parcel of real estate. Only Plan A and Plan B are invested in the parcel of real estate. The remaining assets of the master trust are held proportionately by all three plans. Plans A and B should report information on their holding in all of the assets of the plan, including the parcel of real estate. Plan C should report only its proportionate interest in the assets other than the parcel of real estate.

Element (c)—Investments in PSAs and CCTs. For all investments in PSAs and CCTs, enter the name, EIN/PN of the sponsor of the PSA or CCT, regardless of whether the PSA or CCT filed a Form 5500 in element (c)(i).

Check the box in element (c)(iii) to indicate whether the CCT or PSA filed a Form 5500. If the CCT or PSA did not file a Form 5500, leave element (c)(iii) blank.

If the CCT or PSA filed a Form 5500, make sure to report in element (c)(i) the same name, EIN/PN as reported on the CCT or PSA's Form 5500. If the CCT or PSA filed a Form 5500, enter "same name" in element (c)(iv).

If the CCT or PSA did not file a Form 5500, you must provide the name of the issuer, borrower, lessor, or similar party of each individual asset in the CCT or PSA in element c(iv). Complete as many entries in elements (c)(ii)-(ix) as needed to identify the assets held by each CCT or PSA that did not file a Form 5500.

For an investment in a CCT or PSA that filed a Form 5500, check the box in element c(v) to indicate if the CCT or PSA is primarily invested in hard-to-value assets.

Element (d). Investments in 103–12 Investment Entities. Complete as many entries as need to identify holdings in 103–12 IEs. Do not report in element (d) investments in any entities other than in an entity that filed a Form 5500 for itself as a 103–12 IE.

Line 4i(2) Assets Disposed of During Plan Year.

You must identify on the Line 4i(2) Schedule each investment asset sold during the plan year except:

1. Debt obligations of the U.S. or any U.S. agency.

2. Interests issued by a company registered under the Investment Company Act of 1940 (*e.g.*, a mutual fund).

3. Bank certificates of deposit with a maturity of one year or less.

4. Commercial paper with a maturity of 9 months or less if it is valued in the highest rating category by at least two nationally recognized statistical rating services and is issued by a company required to file reports with the Securities and Exchange Commission under section 13 of the Securities Exchange Act of 1934.

5. Participations in a bank common or collective trust.

6. Participations in an insurance company pooled separate account.

7. Securities purchased from a broker-dealer registered under the Securities Exchange Act of 1934 and either: (1) listed on a national securities exchange and registered under section 6 of the Securities Exchange Act of 1934 or (2) quoted on NASDAQ.

Assets disposed of during the plan year shall not include any investment that was not held by the plan on the last day of the plan year if that investment is reported in the annual report for that plan year in any of the following:

1. The schedule of loans or fixed income obligations in default required by Schedule G, Part I;

2. The schedule of leases in default or classified as uncollectible required by Schedule G, Part II;

3. The schedule of nonexempt transactions required by Schedule G, Part III; or

4. The schedule of reportable transactions required by Schedule H, Line 4j.

Line 4i(2). Schedule of Assets Disposed of During the Plan Year. You must complete the "Schedule of Assets Disposed of During the Plan Year" if you answered "Yes" to Line 4(i)(2).

Element (a). Enter the name of the seller, issuer, lender, or similar party. If the person is a plan sponsor, service provider, or direct filing entity also identified on the Form 5500, Schedule C, or Schedule D, or any other of the Schedule H Line 4 schedules, use the same name in all places. If the asset was held through a master trust, 103–12 IE, CCT, or PSA provide the name, EIN and PN of the entity. For DFEs use the same identifying information used on the entity's own Form 5500. For CCTs and PSAs, check the appropriate box to indicate whether or not the CCT or PSA filed a Form 5500.

Element (b). Indicate in element (b) whether the seller, issuer, lender, or similar party is the employer, employee organization, or other party interest, including a subcontractor or affiliate.

Element (c). Check if the asset was acquired during the plan year.

Element (d). In element (e) enter the employer identification number (EIN) of issuer, borrower, lessor, similar party. If the person is a plan sponsor, service provider, or direct filing entity also identified on the Form 5500, Schedule C, or Schedule D, or any other of the Schedule H, Line 4 schedules, use the same name in all places.

Element (e). Enter in element (c) in which category the asset was part of the total on Line 1(b).

Element (a).

Element (f). Enter the acquisition cost here.

Element (g). Enter the sale price.

Element (h). Enter the total expenses incurred with disposal of asset, including any termination or surrender charges.

Element (i). Enter the net gain (loss) on the asset.

Element (j). Enter a description of the investment, including maturity date, rate of interest, collateral, par, or maturity value.

Line 4j. Check "Yes" and attach to the Form 5500 the following schedule if the plan had any reportable transactions (see 29 CFR 2520.103–6 and the examples provided in the regulation). You may not create your own schedules of assets, but must complete the schedules through IFile or using EFAST-approved third-party software.

A *reportable transaction* includes:

1. A single transaction within the plan year in excess of 5% of the current value of the plan assets;

2. Any series of transactions with or in conjunction with the same person, involving property other than securities, which amount in the aggregate within the plan year (regardless of the category of asset and the gain or loss on any transaction) to more than 5% of the current value of plan assets;

3. Any transaction within the plan year involving securities of the same issue if within the plan year any series of transactions with respect to such securities amount in the aggregate to more than 5% of the current value of the plan assets; and

4. Any transaction within the plan year with respect to securities with, or in conjunction with, a person if any prior or subsequent single transaction within the plan year with such person, with respect to securities, exceeds 5% of the current value of plan assets.

The 5% figure is determined by comparing the current value of the transaction at the transaction date with the current value of the plan assets at the beginning of the plan year. If this is the initial plan year, you may use the current value of the plan assets at the end of the plan year to determine the 5% figure.

If the assets of two or more plans are maintained in one trust, except as provided below, the plan's allocable portion of the transactions of the trust shall be combined with the other transactions of the plan, if any, to determine which transactions (or series of transactions) are reportable (5%) transactions.

For investments in common/collective trusts (CCTs), pooled separate accounts (PSAs), 103–12 IEs, and registered investment companies determine the 5% figure by comparing the transaction date value of the acquisition and/or disposition of units of participation or shares in the entity with the current value of the plan assets at the beginning of the plan year. If the Schedule H is attached to a Form 5500 filed for a plan with all plan funds held in a master trust, check "No" on Line 4j. Plans with assets in a master trust that have other transactions should determine the 5% figure by subtracting the current value of plan assets held in the master trust from the current value of all plan assets at the beginning of the plan year and check "Yes" or "No," as appropriate. Do not include individual transactions of CCTs, PSAs, master trusts, 103–12 IEs, and registered investment companies in which this plan or DFE invests.

In the case of a purchase or sale of a security on the market, do not identify the person from whom purchased or to whom sold.

Special rule for certain participant-directed transactions. Transactions under an individual account plan that a participant or beneficiary directed with respect to assets allocated to his or her account (including a negative election authorized under the terms of the plan) should not be treated for purposes of Line 4j as reportable transactions. The current value of all assets of the plan, including these participant-directed transactions, should be included in determining the 5% figure for all other transactions.

Line 4j. Schedule of Reportable Transactions. You must complete the "Schedule of Reportable Transactions" if you answered "Yes" to Line 4(j).

Element (a). Check the box in element (a) if the seller, issuer, lender, or similar party is the employer, employee organization, service provider, or other party interest, including a subcontractor or affiliate.

Element (b). Enter the name and EIN of the seller, issuer, lender, or similar party. If the person is a plan sponsor, service provider, or direct filing entity also identified on the Form 5500, Schedule C, or Schedule D, or any other of the Schedule H Line 4 schedules, use the same name in all places.

Element (c). Enter a description of the asset, including interest rate and maturity date in the case of the loan.

Element (d). Enter the purchase price, regardless of whether the transaction being reported here is the acquisition or disposal of an asset.

Element (e). If the transaction was the disposal of an asset, enter the sale price.

Element (f). If the transaction involved a lease, enter a description of the lease terms including annual rental and duration of lease.

Element (g). Enter the total expenses incurred in connection with the transaction, including fees and commissions.

Element (h). Enter the cost of the asset.

Element (i). Enter the current value of the asset on transaction date.

Line 4k. You must check "Yes" if any benefits due under the plan were not timely paid or not paid in full. This would include minimum required distributions to 5% owners who have attained 70½ whether or not retired and/or non-5% owners who have attained 70½ and have retired or separated from service, see section 401(a)(9) of the Code. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Do not enter "Yes" if the only benefits not paid are those owed to "missing" or "lost" participants, and the plan fiduciaries have acted in compliance with the Department of Labor's Field Assistance Bulletin 2014–01 to attempt to locate the participants.

Line 4l "Blackout Period." Check "Yes" if there was a "blackout period." A blackout period is a temporary suspension of more than three (3) consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to, or were limited or restricted in their ability to, direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A "blackout period" generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversity assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, see 29 CFR 2520.101–3 (available at *www.dol.gov/ebsa*).

Line 4m. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? If so, check "Yes." See 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Also, answer "Yes" if one of the exceptions to the notice requirement under 29 CFR 2520.101–3 applies.

Line 4n. Disclosures for Participant-Directed Accounts. All individual account plans that provide for participant-direction must provide specified disclosures under 29 CFR 2550.404a-5 with respect to each participant or beneficiary that, pursuant to the terms of the plan, has the right to direct the investment of assets held in, or contributed to, his or her individual account. Included in the required disclosures is a comparison chart.

4o. If you answered "Yes" to Line 4n, check the box to indicate whether the plan provided participants and beneficiaries the plan and investment disclosures required under 29 CFR 2550.404a–5(d)(2). If you answered "Yes," attach the comparison chart(s) provided to participants and beneficiaries.

4p. If you answered "Yes," to Line 4n, enter the number of designated investment alternatives (DIAs) available under the plan, indicate the number of DIAs that are index funds, and check the appropriate box(es) to indicate the types of DIAs available.

4q. If you answered "Yes," to Line 4n, check the appropriate box to indicate whether the plan made available to participants and beneficiaries a designated investment manager (DIM). If you answered "Yes," enter the name of the DIM.

4r. Check "Yes," if the plan made available to participants and beneficiaries any brokerage window, self-directed brokerage account or similar plan arrangements that enabled participants to select investments beyond those designated by the plan. If you answered "Yes" to Line 4r, enter the number of participants that utilized the account or arrangement.

Line 4s. Unrelated business taxable income generally means the gross income derived from any unrelated trade or business (as defined in Code section 513) regularly conducted and not substantially related to the plan's exempt purpose under Code section 512, less the deductions directly connected with carrying on the trade or business. See IRS Publication 598 for more information. Check "N/A" if this plan does not have a trust, such as 412(e)(3) fully insured plans or certain 403(b) annuity plans.

Plans that check "Yes" must enter any amount of unrelated business taxable income. Form 990–T, Exempt Organization Business Income Tax Return, is required for any gross income of $1000 or more generated by an employer's trust by the 15th day of the 4th month following the end of the trust's tax year. See Instructions to Form 990–T for more details.

Note. You are required to complete Line 4s if you are required to file at least 250 returns of any type with the IRS during the calendar year. However, if you are a small filer (file fewer than 250 returns of any type with the IRS during the calendar year), and you do not voluntarily complete this Line 4s, then you must file the Form 5500–SUP with the IRS on paper.

Line 4t. Under the Code, all defined contribution pension plans must provide for a valuation of investments held by the trust at least once a year in a manner consistently followed and uniformly applied. Fair market value on the valuation date specified in the plan is to be used for this purpose and the respective accounts of participants are to be adjusted accordingly. See Rev. Rul. 80–155. Plans that check "No" may result in disqualification of the plan under Treasury Regulations section 1.401–1(a)(2).

Line 4u. Check "Yes" if the employer sponsoring the plan paid any of the administrative expenses of the plan that were not reimbursed by the plan.

Line 4v. Check "Yes" if any person who is disqualified under ERISA Section 411, served or was permitted to serve the plan in any capacity. Section 411 of ERISA establishes a bar against certain persons serving as employee benefit plan fiduciaries or service providers because they have been convicted of any of a broad range of specified crimes. Prohibited positions and activities include consultants and advisers to plans and any entity whose activities are in whole or substantial part devoted to providing goods or services to employee benefit plans. As amended by the Comprehensive Crime Control Act of 1984, section 411 of ERISA prohibits such persons from serving plans for a period of thirteen years after such judgment or the end of imprisonment resulting from a disqualifying conviction, whichever is later, unless the sentencing court, under appropriate circumstances, has reduced the period of prohibition to not less than three years or has determined that service in any of the prohibited capacities would not be contrary to the purposes of ERISA. The prohibition takes effect upon the date of conviction (the date of entry of judgment by the trial court) or the end of imprisonment, whichever is later.

Line 4w. If the plan has investment acquisitions that are leveraged, including assets subject to collateralized lending activities (*e.g.*, securities lending arrangements, repurchase agreements (repos), etc.), check "Yes." If you check "Yes," check the appropriate box to indicate whether securities lending, including repurchase agreements or sell/buy-backs or "Other," including transactions that subjected plan assets to a mortgage, lien, or other security interest. If you check "Other," enter a description. Then separately enter in Line 4w(2) the total amount of cash obligated, the total value of securities obligated, and the total value of other assets obligated in connection with collateralized lending activities at the end of the plan year. In Line 4w(3) enter the approximate ratio of collateralized/leveraged investments (including cash that is obligated) to total plan assets at the end of the year list total amount and approximate ratio of leveraged investments to total plan assets.

Line 4x. Check "Yes" if the plan sponsor or its affiliates provide any services to the plan in exchange for direct or indirect compensation.

Line 4y. See 29 CFR 2520.102–2 and 2520.102–3 for style, format, and content requirements for summary plan descriptions. For distribution requirements see 29 CFR 2520.104b.

Line 4z. Defined contribution pension plans must complete Line 4z. For purposes of Line 4z, an uncashed check is one that is no longer negotiable or is subject to limited payability. Check "Yes," if there were any uncashed checks as of the end of the plan year. If "Yes," indicate the number of checks that were uncashed at the end of the plan year and the total value of the checks. Briefly describe the procedures followed by the plan to verify a participant's or beneficiary's address before a check was mailed. Plans must ensure that they use measures reasonably calculated to ensure actual receipt of materials by plan participants and beneficiaries, which would include procedures to keep track of participants' and beneficiaries' current mailing addresses so that information is less likely to be mailed to a bad address. See CFR 2520.104b–1(b). Also, briefly describe the procedures followed by the plan to address the uncashed checks, including steps to locate "missing participants."

Plans should have procedures to keep track of uncashed checks. The procedures for ongoing plans should include procedures for locating "missing" participants. Plans may use the steps described in FAB 2014–01 to search for lost participants or beneficiaries, which may be helpful in particular where a check was returned as "undeliverable." The procedures should also include a method by which plan fiduciaries keep track or are made aware of the number of uncashed checks and the amount involved. Such procedures could include contractually requiring any third party administrators to keep the plan administrator regularly informed of uncashed checks. For missing participant and beneficiary searches and distributions from terminating defined contribution pension plans, see 29 CFR 2550.404a-3; DOL Field Assistance Bulletin 2014–01 (Aug. 14, 2014).

Part V—Termination Information on Service Providers

Complete Part V if there was a termination in the appointment of an accountant or enrolled actuary during the 20**XX** plan year regardless of the reason or to identify any service providers, other than accountants or actuaries identified above, that have been terminated for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b-2.

Line 5. Termination Information on Accountants and Actuaries. Information on the termination of an accountant or actuary must be provided on the Form 5500 Annual Return/Report for the plan year during which the termination occurred. For example, if an accountant was terminated in the 20XX plan year after completing work on an audit for the 20**XX–1** plan year, the termination should be reported on the Schedule H filed with the 20**XX** plan year Form 5500 Annual Return/Report. If the accountant is a firm (such as a corporation, partnership, etc.), report when the service provider (not an individual within the firm) was terminated.

An enrolled actuary is by definition an individual and not a firm, and you must report when the individual is terminated.

Provide an explanation of the reasons for the termination of an accountant or enrolled actuary. Include a description of any material disputes or matters of disagreement concerning the termination, even if resolved prior to the termination. If an individual is listed, and the individual does not have an EIN, the EIN to be entered should be the EIN of the individual's employer.

[TIP] *If the only reason for change of appointment was a temporary leave of absence due to non-work circumstances of the enrolled actuary, so indicate in the "explanation" field.*

Do not use a social security number in lieu of an EIN. The Schedule C and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule C or any of its attachments may result in the rejection of the filing.

The plan administrator must also provide the terminated accountant or enrolled actuary with a copy of the explanation for the termination provided in Line 5f, along with a completed copy of the notice below.

Notice to Terminated Accountant or Enrolled Actuary

I, as plan administrator, verify that the explanation that is reproduced below or attached to this notice is the explanation concerning your termination reported on the Schedule C (Form 5500) attached to the 20**XX** Form 5500, Annual Return/Report of Employee Benefit Plan, for the _______________ (enter name of plan).

This Form 5500 is identified in Line 2b by the nine-digit EIN____–____(enter sponsor's EIN), and in Line 1b by the three-digit PN______ (enter plan number).

You have the opportunity to comment to the Department of Labor concerning any aspect of this explanation. Comments should include the name, EIN, and PN of the plan and be submitted to: Office of Enforcement, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. **[INSERT EMAIL ADDRESS]**

Signed
Dated

Line 6. Information on Service Providers Terminated for Material Failure. Provide information for any service providers, other than accountants or actuaries identified above, that have been terminated for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b-2.

Lines 6a–d. Provide identifying information in the appropriate lines.

Lines 6e–f. If the reason for termination was the failure to provide required disclosures under 29 CFR 2550.408b–2, in addition to providing an explanation in Line 6e, check the box in Line 6f.

Part VI—Plan Termination Information

Line 7a. Check "Yes" if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If "Yes" is checked, enter in Line 7a(1) the effective date of plan termination, enter in Line 7a(2) the plan year in which assets were distributed to participants and beneficiaries (including insurance/annuity contracts) and enter in Line 7a(3) the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter

"0" if no reversion occurred during the current plan year.

Line 7b. Transfer to other plans. If the plan transferred assets or liabilities to another plan since the date of the most recent filing, report the EIN and PN of the plan to which the assets and liabilities were transferred (*i.e.,* the "transferee plan"). In addition, report the date of the transfer and check the box that best describes the type of transfer (see **Definitions** below). Do not use a social security number in lieu of an EIN or include an attachment that contains visible social security numbers. The Schedule H is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule H or the inclusion of a visible social security number or any portion thereof on an attachment may result in the rejection of the filing.

Note. A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R should not be included on Line 7b. Do not submit Form 1099–R with the Form 5500 Annual Return/Report.

IRS **Form 5310–A,** Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, may be required to be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing IRS Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. See PBGC Form 10, Post-Event Notice of Reportable Events, and PBGC Form 10-Advance, Advance Notice of Reportable Events.

Line 7c. Transfers from other plans. If another plan transferred assets or liabilities to this plan since the date of the most recent filing, report the EIN and PN of the plan from which the assets and liabilities were transferred (*i.e.,* the "transferor plan"), the date of the transfer, and the box that best describes the type of transfer.

"Consolidation" means a transaction in which two or more plans transfer all of their assets and liabilities to a new plan and, as a result, cease to exist (because the transferor plans become part of the new transferee plan). It differs from a Merger because in a Merger, the transferee plan existed before the transaction. In a consolidation, the transferee plan is a new plan that is created in the Consolidation. Thus, the plan that exists after the Consolidation follows the PBGC premium filing rules for new plans.

"Merger" means a transaction in which one or more plans transfer all of their assets and liabilities to an existing plan and, as a result, cease to exist (because the transferor plan(s) become part of the transferee plan). It differs from a Consolidation because in a Consolidation, the transferee plan did not exist before the transaction. In a Merger, the transferee plan is an existing plan and follows the rules for a preexisting, ongoing plan.

"Spinoff" means a transaction in which the transferor plan transfers only part of its assets and/or liabilities to the transferee plan. The transferee plan may be a new plan that is created in the Spinoff, or it may be a preexisting plan that simply receives part of the assets or liabilities of the transferor plan.

Note: If Final Return/Report is checked on the Form 5500 of Form 5500–SF, information should be entered an at least one of lines 7a or 7b. Participant-directed transfers do not need to be reported on Line 7c. If you reported transfers of assets and liabilities to this plan on Line 2l(1), information should be entered in Line 7c.

Line 7d. Terminated Defined Contribution Pension Plans: Transfers to Financial Institutions. If the filer is a defined contribution pension plan, indicate whether, as part of the procedures for terminating the plan, transferred plan assets to a financial institution(s), establishing interest bearing federally insured bank accounts in the name of missing participants in connection with terminating the plan. If "Yes," complete elements (1)–(5). List each financial institution where plan assets were transferred and continue reporting until the plan terminates and the final return/report is filed. For more information on making provisions for lost or missing participants, see DOL Field Assistance Bulletin 2014–01.

Part VII—Trust Information

Line 8a. Enter the "Name of trust." If a plan uses more than one trust or custodial account for its fund, you should enter the primary trust or custodial account in which the greatest dollar amount or largest percentage of the plan assets as of the end of the plan year is held on this Line. For example, if a plan uses three different trusts, X, Y, Z, with the percentages of plan assets, 35%, 45%, and 20%, respectively, trust Y that held the 45% of plan assets would be entered in Line 6a.

Line 8b. You may use this line to enter the "Trust's Employer Identification Number (EIN)" assigned to the employee benefit trust or custodial account, if one has been issued to you. The trust EIN should be used for transactions conducted for the trust. If you do not have a trust EIN, enter the EIN you would use on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., to report distributions from employee benefit plans and on Form 945, Annual Return of Withheld Federal Income Tax, to report withheld amounts of income tax from those payments.

Do not use a social security number in lieu of an EIN. Form 5500 and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof may result in the rejection of the filing.

Trust EIN can be obtained from the IRS by applying for one on Form SS–4, Application for Employer Identification Number. See Instructions to Line 2b (Form 5500) for applying for an EIN. Also see the online IRS EIN application page at *https://federal-ein-online.com/* for further information.

Line 8c. Enter the name and other identifying information of the plan trustee or custodian. Enter the telephone number for the plan trustee or custodian.

Note. You must enter trust information from Lines 8a through 8c if you are required to file at least 250 returns of any type with the IRS during the calendar year. However, if you are a small filer (files fewer than 250 returns of any type with the IRS during the calendar year), and you do not enter trust information here, then you must file the paper Form 5500–SUP with the IRS. See the Treasury regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media." (See 79 FR 58256 at *http://federalregister.gov/a/2014–23161*) and Instructions for Form 5500–SUP for more information.

Trustee/Custodian Signature

The plan trustee or custodian may electronically sign this schedule or attach to the Form 5500 an electronic reproduction of the Schedule H signed by the plan's trustee. This electronic reproduction must be labeled ***"Trustee Signature"*** and must be included as a Portable Document Format (PDF) attachment or any alternative electronic attachment allowable under EFAST2 if this is not electronically signed. If there is more than one trustee or custodian, the trustee or custodian authorized by the others may sign. If the plan trustee or custodian is an entity, the signature must be the name of a person authorized to sign on behalf of the plan trustee or custodian.

Note. Trust information reported in this Schedule is for the purpose of satisfying the requirements under Code section 6033(a) for an annual information return from every section 401(a) organization exempt from tax under section 501(a). The statute of limitations under Code section 6501(a) for any trust described in section 401(a), which is exempt from tax under section 501(a), will not start to run until you timely file with the appropriate trust information on this Schedule.

Schedule J (Form 5500) Group Health Plan Information

General Instructions

Who Must File

Schedule J (Form 5500) must be attached to a Form 5500 filed for group health plans, except as provided below. The term "group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care (as defined in ERISA § 733(a)(2) and including items and services paid for as medical care) to employees or their dependents (as defined under the terms of the plan) directly or through insurance, reimbursement, or otherwise. This includes group health plans that are funded through a trust, unfunded, fully-insured, or a combination of more than one of these funding arrangements. This also includes plans that claim "grandfathered" status under 29 CFR 2950.715–1251, and plans that are exempt from certain market reform requirements under ERISA § 732(a) (exemption for certain small group health plans that have less than two participants who are current employees) or ERISA § 733(c) (group health plans consisting solely of excepted benefits). See the Form 5500 Annual Return/Report Instructions "Who Must File" section for more information. It also includes retirement plans that provide retiree health benefits and welfare plans that provide a variety of benefits, including medical benefits.

Small (fewer than 100 participants at the beginning of the plan year), fully-insured group health plans only need to complete Part I, Lines 1–8 of Schedule J, except they must complete the entire Schedule J where the only policy is a "stop loss" policy, including stop loss policies with the employer/plan sponsor as the insured.

If a plan provides multiple types of benefits such as group health, life, and disability, only report information about group health benefit participation, claims, benefit types, compliance, etc., on Schedule J.

Plans must complete one Schedule J for all the health benefit coverages they provide. GIAs must complete a separate Schedule J for each participating plan.

Check the Schedule J box on the Form 5500 (Part II, Line 11b(6)) if a Schedule J is attached to the Form 5500.

Part I of the Schedule J must be completed to report certain characteristics of the group health plan.

Part II of the Schedule J must be completed to report service providers providing services to the group health plan. You must include information on third party administrators and claims processors; mental health benefits managers, substance use disorder benefits managers, pharmacy benefit managers (PBM), independent review organizations (IRO), and wellness program managers. Multiple entries for each may be entered. Service providers that render services in relation to the group health plan that are reported on the Schedule C or the Schedule A do not need to be reported on Schedule J.

Part III of the Schedule J must be completed by plans that do not file Schedule H to report financial information.

Part IV of the Schedule J must be completed to report claims processing and payment information.

Part V of the Schedule J must be completed to report compliance information for plans that do not file the Form M–1. Plans that file the Form M–1, skip questions 24–30.

For more information and guidance for group health plans, visit EBSA's Web site at *www.dol.gov/ebsa.* For information on state regulation of health insurance, contact your State Insurance Department. For information on HHS regulation of health insurance, go to the Web site of the Center for Consumer Information and Insurance Oversight at *https://www.cms.gov/cciio/.*

Specific Instructions

Part I—Group Health Plan Characteristics

You must enter information related to certain characteristics of the group health plan.

Line 1. Report the number of persons covered by the plan at the end of the plan year. Persons, for purposes of this line, include participants, beneficiaries, and dependents of participants covered under the plan.

Line 2. Check all that apply to indicate who is eligible for coverage under the plan.

Line 3. Check all that apply to indicate the type of benefits and design characteristics included under the plan.

Line 4. Check all that apply to indicate the funding and benefit arrangement(s) for the plan. If the plan offers benefit package options that are fully insured (*i.e.* benefits are provided under a group policy purchased from a health insurance issuer to fund the benefits), in Line 4a(1)(a), check "Health Insurance Issuer" and enter the name(s), EIN and National Insurance Product Registry Number of insurance carriers providing benefits under the plan. If the health funding or benefit arrangement is through a health insurance issuer, and the product is an "off-the-shelf" or "prototype" policy, product, or arrangement, enter in Line 4a(1)(b) any unique identification information for the product or policy (*e.g.,* a state assigned product identification number). Check all that apply under 4a(1)(c).

If the plan offers benefit package options that are self-insured (*i.e.,* provide benefits from the general assets of the employer or through a trust), check all that apply under 4a(2) and/or 4a(3).

A Health Insurance Issuer means an insurance company, insurance service, or insurance organization (including a health maintenance organization, as defined in ERISA § 733(b)(3)), that is licensed to engage in the business of insurance in a State and that is subject to State laws regulating insurance (within the meaning of ERISA § 514(b)(2)).

Line 5. Check all characteristics that apply to the plan. With regard to plans that claim grandfathered status, certain changes may cause the plan to relinquish its grandfathered status such as elimination of benefits, certain increases in cost-sharing requirements, and certain decreases in contribution rates by employers or employee organizations. For more information about grandfathered group health plans, see 29 CFR 2590.715–1251.

In general, a health flexible spending account (FSA) is a benefit designed to reimburse employees for medical care expenses (as defined in Code section 213(d), other than premiums) incurred by the employee, or the employee's spouse, dependents, and any children who, as of the end of the taxable year, have not attained age 27. See Code section 106(c)(2) and 26 CFR 1.125–5. A health reimbursement arrangement (HRA) typically consists of a promise by an employer to reimburse medical expenses, including insurance premiums, for the year up to a certain amount, with unused amounts available to reimburse medical expenses in future years. See IRS Notice 2002–45. A high deductible health plan (HDHP) is a group health plan subject to specific cost-sharing requirements as defined in section 223(c)(2) of the Code.

Line 6a. Indicate the total number of persons offered COBRA continuation coverage under the plan during the plan year.

Line 6b. From the universe of persons listed in line 6a, indicate the number of persons who subsequently elected COBRA coverage. Include any persons who elected coverage after the end of the plan year.

Line 6c. Indicate the number of persons covered under the plan through COBRA continuation coverage at any time during the plan year.

Line 7. Indicate on Line 7a whether the plan received a rebate, reimbursement, or refund from a service provider such as a health insurance issuer, third-party administrator, or pharmacy benefit manager. Include multiple entries if necessary. Include all distributions from service providers including refunds, dividends, demutualization payments, rebates, and excess surplus distributions. Any medical loss ratio (MLR) rebates received pursuant to Section 2718 of the Public Health Service Act must be reported here. Also, include refunds returned to the plan based on low claims experience or termination of a service contract. Do not include dividends or retroactive rate refunds reported on Schedule A, Line 9. If you answer "Yes" to Line 7a, you must complete Line 7b. Complete a separate entry for Lines 7b(1)–(3) for each rebate, reimbursement, or refund, entering in Line 7b(1) the amount(s) and date(s) the rebate(s), reimbursement(s), or refund(s) were received. Check the appropriate box in b(2) to indicate the source and the appropriate box in b(3) to specify how the funds were used or allocated.

Line 8. Indicate whether there were any premium delinquencies during the reporting year. You must answer "Yes" or "No." Do not leave Line 8a blank. If you answered "Yes," you must indicate both the number of times delinquent for premiums due but unpaid during the year, and for each delinquency, the number of days delinquent. If you answered "No" to line 8a, check "N/A" on line 8b. If any premium payments that were not made within the time required by the insurance carrier resulted in a lapse of health insurance coverage, you must answer "Yes" to Line 8b even if coverage was retroactively reinstated.

Part II—Service Provider and Stop Loss Insurance Information

Lines 9–13. Enter identifying information for third party administrator/claims processor, including insurance issuers subject to an "administrative services only" (ASO) contract or other agreement that are not reported on Schedule A or Schedule C, mental health benefits managers, substance use disorder benefits managers, pharmacy benefit manager/drug providers, and independent review organizations on the appropriate line. Repeat as many line entries as necessary to report all service providers under each category.

Element (c). If applicable, enter the National Producer Number (NPN) of the service provider in element (c) for each type of service provider. The NPN is a unique NAIC identifier assigned through the licensing application process or the NAIC reporting systems to individuals and business entities (including, but not limited to producers, adjusters, and navigators) engaged in insurance related activities regulated by a state insurance department. The NPN is used to track those individuals and business entities on a national basis.

Line 14. Wellness Program Manager. If there was a wellness program associated with the plan, enter the contact information for the wellness program manager. A "wellness program" is defined in 29 CFR 2590.702(f) to include "any program designed to promote health or prevent disease" and includes programs that condition benefits (including cost-sharing mechanisms) or the premium or employer contribution amounts on an individual satisfying a standard that is related to a health factor as well as those programs that do not include conditions for obtaining a reward that are based on an individual satisfying a standard that is related to a health factor.

Line 15. "Stop Loss" Insurance. If there was stop loss insurance associated with the plan, enter the name and identifying information for the insurance carrier providing the coverage in elements (a)–(c). This includes policies entered into by the plan sponsor for obligations of the plan sponsor to pay benefits under the plan.

Line 15d. Enter the total premium paid to the stop loss provider.

Line 15e. Enter the applicable attachment points for individual claims and aggregate claims. For this purpose, attachment points are the threshold dollar amounts which, when reached, the stop loss coverage begins to pay benefit claims.

Line 15f. Enter any applicable individual and aggregate claim limits at which the stop loss ceases coverage. For example, stop loss coverage may only cover individual claims up to a certain dollar amount or cease paying claims after an aggregate dollar amount is met.

Line 15g. Enter the policy or contract year beginning and end dates for the policy ending with or within the plan year.

Line 15h. Check the box if the employer or plan sponsor is the insured party under the stop-loss policy.

Part III—Financial Information

Note: Form 5500 filers that file Schedule H can skip this section and proceed to Part IV Claims Processing and Payment.

Line 16a. Report the total cash contributions received from employer(s). In the absence of a trust (*e.g.,* where a cafeteria plan elects not to establish a trust in reliance on Technical Release No. 92–01), include employer contributions applied directly to the payment of benefits or expenses attendant to the provision of health benefits.

Line 16b. For accrual basis plans, report the total cash contributions receivable from employer(s).

Line 16c. Report the total cash contributions received from employees, including all elective contributions under a cafeteria plan (Code section 125 arrangement) attendant to the provision of health benefits.

Line 16d. For accrual basis plans, report the total cash contributions receivable from employees, including all receivable elective contributions under a cafeteria plan (Code section 125 arrangement) attendant to the provision of health benefits.

Line 16e. Report other contributions received or receivable, including non-cash contributions, which should be reported at the current value at the date contributed.

Line 16f. Enter the total contributions. Add lines 16a-e.

Line 17. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets (see 29 CFR 2510.3–102). For Schedule J purposes, participant contributions include all elective contributions under a cafeteria plan (Code section 125 arrangement). Indicate whether there was a failure to timely transmit participant contributions to the plan during the filing period. Continue to answer "Yes" for any prior year failures until fully corrected.

Part IV—Health Benefit Claims Processing and Payment

Every employee benefit plan shall establish and maintain reasonable procedures governing the filing of benefit claims, notification of benefit determinations, and appeal of adverse benefit determinations. See 29 CFR 2560.503–1 and 2590.715–2719(a). These questions ask you to quantify the number of benefit claims processed during the year. Unless otherwise instructed, do not provide dollar amounts instead of number of benefit claims processed.

A pre-service benefit claim means any claim for a benefit under a group health plan with respect to which the terms of the plan condition receipt of the benefit, in whole or in part, on approval of the benefit in advance of obtaining medical care and includes urgent care and concurrent care claims.

A post-service benefit claim means any claim for a benefit under a group health plan that is not a pre-service claim and is typically a request for payment that you or your health care provider submits to your health insurer when you get items or services you think are covered.

"Claims Adjudication" is a term used in the insurance industry to refer to the process of paying claims submitted or denying them after comparing claims to the benefit or coverage requirements.

Line 18a(1)–(3). Enter the number of post-service benefit claims submitted during the plan year regardless of whether the claim was approved or denied. Do not include duplicate claims, *i.e.,* claims denied as previously considered. Enter the number of post-service benefit claims paid during the plan year. Enter the number of post-service benefit claims denied during the plan year. Do not include duplicate claims, *i.e.,* denied as previously considered.

Line 18b(1)–(2). Enter the number of post-service benefit claims appealed during the plan year. Then, enter the number of post-service claim denials upheld upon appeal and the number that were payable after appeal.

Line 18c(1)–(2). Enter the number of pre-service benefit claims appealed. Then, enter the number of pre-service claim denials upheld upon appeal and the number that were payable after appeal.

Line 19. Indicate whether there were any pre-service or post-service benefit claims that were not adjudicated within the required time frames. In accordance with 29 CFR 2560.503–1(f)(2)(iii)(A), the plan administrator shall notify the claimant of the plan's benefit determination (whether adverse or not) within a reasonable period of time appropriate to the medical circumstances, but not later than 15 days after the receipt of the claim. In accordance with 29 CFR 2560.503–1(f)(2)(iii)(B) the plan administrator shall notify the claimant of the plan's adverse benefit determination on a post-service claim within a reasonable period of time, but not later than 30 days after receipt of the claim. This period may be extended one time for up to 15 days in circumstances where the delay is beyond the plan's control and the plan notifies the claimant of the extension prior to the expiration of the initial review period of why the extension is needed and the date by which the plan expects to render a decision.

Line 20. Indicate whether, at any time during the year, the group health plan failed to pay benefit claims within one month of being approved for payment. If you answer "Yes," indicate the number of claims the plan failed to pay, total dollar amount of claims not paid within one (1) month, and the number of claims not paid within three (3) months or longer.

Example. A plan sponsor of an unfunded plan experienced financial difficulty in February and was unable to pay health benefit claims until May. In May, the plan sponsor's revenues increased and claims were paid. The plan must report the number of claims the plan was unable to pay from February to May even though the claims were subsequently paid in May.

Line 21. Enter the total dollar amount of health benefit claims paid during the year. Do not include administrative expenses in the amount of claims paid.

Part V—Compliance Information

Line 22. Trust compliance. Indicate whether all plan assets are maintained consistent with ERISA § 403 and 29 CFR 2550.403a–1 and 2550.403b–1. Pursuant to Technical Release 92–01, the DOL has opted to take a non-enforcement policy with respect to violations resulting solely because of a failure to hold participant contributions in trust in the case of a cafeteria plan described in section 125 of the Internal Revenue Code.

Line 23. General Disclosure Compliance. Indicate whether the following disclosure documents are in compliance with the applicable content requirements:

- Summary plan description (SPD)—See 29 CFR 2520.104b–2.
- Summary of Benefits and Coverage (SBC)—See 29 CFR 2590.715–2715.
- Summary of material modification (SMM)—See 29 CFR 2520.104b–3.
- Summary annual reports (SAR)—See 29 CFR 2520.104b–10(d).

A Reporting and Disclosure Guide for Employee Benefit Plans describing basic reporting and disclosure requirements under ERISA can be found at *http://www.dol.gov/ebsa/pdf/rdguide.pdf.*

Health Benefit Compliance

Plans that file the Form M–1, skip questions 24–30. Guidance material and additional compliance assistance information that may be helpful in understanding the requirements listed below is available in publications, fact sheets, and frequently asked questions available on EBSA's Web site at *www.dol.gov/ebsa.* Interested persons may also call and speak to a benefits advisor about these laws, by calling the EBSA toll-free hotline at 1–866–444–3272. A self-auditing tool to determine compliance with Part 7 of Title I of ERISA is available at *http://www.dol.gov/ebsa/pdf/cagappa.pdf.*

Line 24. HIPAA Compliance. The Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191) (HIPAA) amended ERISA to provide for, among other things, improved portability and continuity of health insurance coverage.

Line 25. GINA Compliance. The Genetic Information Nondiscrimination Act of 2008 (Pub. L. 110–233) (GINA) amended ERISA to prohibit the use of genetic information to adjust group premiums or contributions, prohibit the collection of genetic information, and prohibit requesting individuals to undergo genetic testing.

Line 26. Mental Health Parity Compliance. The Mental Health Parity Act of 1996 (Pub. L. 104–204, as amended by Pub. L. 107–116 and Pub. L. 107–147) (MHPA) amended ERISA to provide parity in the application of aggregate lifetime and annual dollar limits for certain mental health benefits with such dollar limits on medical and surgical benefits. The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Pub. L. 110–343) (MHPAEA) amended ERISA by expanding the MHPA rules to cover benefits for substance use disorders, and adding new rules for parity in financial requirements and treatment limitations.

Line 27. Newborns' and Mothers' Health Protection Compliance. The Newborns' and Mothers' Health Protection Act of 1996 (Pub. L. 104–204) (Newborns' Act) amended ERISA to provide new protections for mothers and their newborn children with regard to group health plan coverage of the length of hospital stays in connection with childbirth.

Line 28. Women's Health and Cancer Rights Compliance. The Women's Health and Cancer Rights Act of 1998 (Pub. L. 105–277) (WHCRA) amended ERISA to provide new rights under group health plans for coverage of reconstructive surgery in connection with a mastectomy.

Line 29. Michelle's Law Compliance. Michelle's Law (Pub. L. 110–381) amended ERISA to provide dependent children with protections against termination of group health plan coverage while on a medically necessary leave of absence from a postsecondary educational institution.

Line 30. Affordable Care Act Compliance. The Affordable Care Act amended ERISA to provide a wide range of protections for participants of group health plans. For more information on the Affordable Care Act, see *www.dol.gov/ebsa/healthreform.*

Form M–1 Compliance Information.

Line 31a. You must answer either "Yes" or "No" to Line 31a. Do not leave the answer blank. If the plan is a multiple employer welfare arrangement or an Entity Claiming Exception (ECE) subject to the Form M–1, *Report for Multiple Employer Welfare Arrangements (MEWAs) and Certain Entities Claiming Exception (ECEs)* filing requirements, check "Yes" and complete elements 31b and 31c. If the answer is "No," skip elements 31b and 31c.

Generally, a Form M–1 must be filed each year by March 1st following the calendar year in which a plan operates subject to the Form M–1 filing requirement. (For example, a plan MEWA that was operating in 20**XX** must file the 20**XX** Form M–1 annual report by March 1, 20**XX+1**.) In addition, Form M–1 filings are necessary in the case of certain registration, origination, or special events. See the instructions for Form M–1 at *http://www.askebsa.dol.gov/mewa,* and 29 CFR 2520.101–2 for more information regarding the Form M–1 filing requirements for plan MEWAs and ECEs.

Line 31b. All plans that answered "Yes" in Line 31a must complete Line 31b by answering either "Yes" or "No." Do not leave the answer blank if you answered "Yes" in Line 31a.

Line 31c. All plans that answered "Yes" in Line 31a must enter a Receipt Confirmation Code for the 20**XX** Form M–1 annual report that was required to be filed with the Department of Labor under the Form M–1 filing requirements. The Receipt Confirmation Code is a unique code generated by the Form M–1 electronic filing system. You can find this code under the "completed filings" area when you log into your Form M–1 electronic filing system at *http://www.askebsa.dol.gov/mewa.* If a plan was not required to file a 20**XX** Form M–1 annual report, enter the Receipt Confirmation Code for the most recent Form M–1 that was required to be filed under the Form M–1 filing requirements on or before the date of filing the 20**XX** Form 5500. (For example, if a plan was not required to file a 20**XX** Form M–1 annual report by March 1, 20**XX+1** for the 20**XX** calendar year because it experienced a registration event between October 1 and December 31, 20**XX**, and made a timely Form M–1 registration filing, the plan must enter on Line 31c of the 20**XX** Form 5500 the Receipt Confirmation Code issued for the Form M–1 registration filing.)

If a plan that is subject to the Form M–1 filing requirements was not required to file a 20**XX** Form M–1 annual report, enter the Receipt Confirmation Code for the most recent Form M–1 that was required to be filed under the Form M–1 filing requirements on or before the date of filing the 20**XX** Form 5500. (For example, if a plan was not required to file a 20**XX** Form M–1 annual report by March 1, 20**XX** for the 20**XX** calendar year because it experienced a registration event between October 1 and December 31, 20**XX**, and made a timely Form M–1 registration filing, the plan must provide the Receipt Confirmation Code for the Form M–1 registration filing.)

The failure of a plan required to complete Schedule J to answer Line 31a, and if applicable, lines 31b and 31c, or enter a valid Receipt Confirmation Code in Line 31c, will subject the Form 5500 filing to rejection as incomplete and civil penalties may be assessed pursuant to ERISA Section 502(c)(2) and 29 CFR 2560.502c–2.

20XX Instructions for Schedule MB (Form 5500)—Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information

General Instructions

Who Must File

As the first step, the plan administrator of any multiemployer defined benefit pension plan that is subject to the minimum funding standards (see Code sections 412 and 431 and Part 3 of Title I of ERISA) **must** obtain a completed Schedule MB (Form 5500) that is prepared and signed by the plan's enrolled actuary as discussed below in the *Statement by Enrolled Actuary* section. The plan administrator must retain with the plan records the Schedule MB that is prepared and electronically signed by the plan's actuary. The electronic-signature by the plan actuary is acceptable. The plan actuary can access the EFAST2 Web site at *www.efast.dol.gov* to register for electronic credentials to sign.

The plan administrator of a multiemployer defined benefit pension plan must ensure that the information from the actuary's Schedule MB is entered electronically into the annual return/report being submitted. When entering the information, whether using EFAST2-approved software or EFAST2's web-based filing system, all the fields required for the type of plan must be completed (see instructions for fields that need to be completed).

Further, if a plan actuary chooses not to sign electronically, then the actuary must manually sign the Schedule MB and an electronic reproduction must be filed with the Form 5500. The plan administrator of a multiemployer defined benefit pension plan must attach to the Form 5500 an electronic reproduction of the Schedule MB prepared and signed by the plan's enrolled actuary. This electronic reproduction must be labeled ***"MB Actuary Signature"*** and must be included as a Portable Document Format (PDF) attachment or any alternative electronic attachment allowable under EFAST2.

If a money purchase defined contribution pension plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, lines 3, 9, and 10 of Schedule MB must be completed but it need not be signed by an enrolled actuary. In such a case, the Form 5500 or the Form 5500–SF that is submitted under EFAST2 must include the Schedule MB with lines 3, 9, and 10 completed, but is not required to include a signed Schedule MB.

Note. Schedule MB does not have to be filed with the Form 5500–EZ, but, if required, it must be retained (in accordance with the instructions for Form 5500–EZ under the *What to File* section). Similarly, if a plan is a one-participant plan that meets the requirements for filing a Form 5500–EZ, but a Form 5500–SF is instead filed for the plan, the Schedule MB, if required, does not have to be filed with the Form 5500–SF, but it must be retained (in accordance with the instructions for the Form 5500–SF under Schedule MB in the *Specific Instructions Only for "One-Participant Plans and Certain*

Foreign Plans" section). Also, the funding standard account for the plan must continue to be maintained, even if the Schedule MB is not filed.

Check the Schedule MB box on the Form 5500 (Part II, Line 10a(2)) if a Schedule MB is attached to the Form 5500.

Lines A through E **must** be completed for ALL plans. If the Schedule MB is attached to a Form 5500 or Form 5500–SF, Lines A, B, C, and D should include the same information as reported in Part II of the Form 5500 or Form 5500–SF. You may abbreviate the plan name.

Do not use a social security number in Line D in lieu of an EIN. The Schedule MB and its attachments are open to public inspection if filed with a Form 5500 or Form 5500–SF, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule MB or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see *Section 3: Electronic Filing Requirement* under the *General Instructions to Form 5500* and *How to File—Electronic Filing Requirement* under the *General Instructions to Form 5500–SF.* The EBSA does not issue EINs.

Note. (1) For split-funded plans, the costs and contributions reported on Schedule MB must include those relating to both trust funds and insurance carriers. (2) For plans with funding standard account amortization charges and credits, see the instructions for lines 9c and 9h. (3) For terminating multiemployer plans, Code section 412(e)(4) and ERISA section 301(c) provide that minimum funding standards apply until the last day of the plan year in which the plan terminates within the meaning of section 4041A(a)(2) of ERISA. Accordingly, the Schedule MB is not required to be filed for any later plan year.

Statement by Enrolled Actuary

An enrolled actuary must sign Schedule MB with either an electronic signature or a handwritten signature unless, as described above, the plan is a money purchase defined contribution pension plan that has received a waiver of the minimum funding standard. The signature of the enrolled actuary may be qualified to state that it is subject to attached qualifications. See Treasury Regulations section 301.6059–1(d) for permitted qualifications. Except as otherwise provided in these instructions, a stamped or machine produced signature is not acceptable. If the actuary has not fully reflected any final or temporary regulation, revenue ruling, or notice promulgated under the statute in completing the Schedule MB, check the box on the last line of page 1. If this box is checked, indicate on this line whether an accumulated funding deficiency or a contribution that is not wholly deductible would result if the actuary had fully reflected such regulation, revenue ruling, or notice. In addition, the actuary may offer any other comments related to the information contained in Schedule MB.

The actuary must provide the completed and signed Schedule MB and transmit it to the plan administrator to be retained with the plan records and included (in accordance with these instructions) with the Form 5500 Annual Return/Report that is submitted under EFAST2. The plan's actuary is permitted to electronically sign the Schedule MB or sign on page one using the actuary's signature or by inserting the actuary's typed name in the signature line followed by the actuary's handwritten initials. The actuary's most recent enrollment number must be entered on the Schedule MB that is prepared and signed by the plan's actuary.

Attachments

All attachments to the Schedule MB must be properly identified, and must include the name of the plan, the plan sponsor's EIN, and the plan number. Put "Schedule MB" and the line number to which the attachment relates at the top of each attachment. Do not include attachments that contain a visible social security number. The Schedule MB and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a visible social security number or any portion thereof on an attachment may result in the rejection of the filing.

Specific Instructions

Line 1. All entries must be reported as of the valuation date.

Line 1a. Actuarial Valuation Date. The valuation for a plan year may be as of any date in the plan year, including the first or last day of the plan year. Valuations must be performed within the period specified by Code section 431(c)(7) and ERISA section 304(c)(7).

Line 1b(1). Current Value of Assets. Enter the current value of assets as of the valuation date. The current value is the same as the fair market value. Do not adjust for items such as the existing credit balance or the outstanding balances of certain amortization bases. Contributions designated for 20**XX** should not be included in this amount. Note that this entry may be different from the entry in Line 2a. Such a difference may result, for example, if the valuation date is not the first day of the plan year, or if insurance contracts are excluded from assets reported on Line 1b(1) but not on Line 2a.

Rollover amounts or other assets held in individual accounts that are not available to provide defined benefits under the plan should not be included on Line 1b(1), regardless of whether they are reported on the 20**XX** Schedule H (Form 5500) (Line 1l, column (a)). Additionally, asset and liability amounts must be determined in a consistent manner. Therefore, if the value of any insurance contracts have been excluded from the amount reported on Line 1b(1), liabilities satisfied by such contracts should also be excluded from the liability values reported on Lines 1c(1), 1c(2), and 1d(2) of the Schedule MB.

Line 1b(2). Actuarial Value of Assets. Enter the value of assets determined in accordance with Code section 431(c)(2) and ERISA section 304(c)(2). Do not adjust for items such as the existing credit balance or the outstanding balances of certain amortization bases, and do not include contributions designated for 20**XX** in this amount.

Line 1c(1). Accrued Liability for Immediate Gain Methods. Complete this line only if you use an immediate gain method (see Rev. Rul. 81–213, 1981–2 C.B. 101, for a definition of immediate gain method).

Lines 1c(2)(a), (b), and (c). Information for Plans Using Spread Gain Methods. Complete these lines only if you use a spread gain method (see Rev. Rul. 81–213 for a definition of spread gain method).

Line 1c(2)(a). Unfunded Liability for Methods with Bases. Complete this line only if you use the frozen initial liability or attained age normal cost method.

Lines 1c(2)(b) and (c). Entry Age Normal Accrued Liability and Normal Cost. For spread gain methods, these calculations are used for purposes of the full funding limitation (see Rev. Rul. 81–13, 1981–1 C.B. 229).

Line 1d(1). Amount Excluded from Current Liability. Leave Line 1(d)(1) blank.

Line 1d(2)(a). Current Liability. All multiemployer plans, regardless of the number of participants, must provide the information indicated in accordance with these instructions. The interest rate used to compute the current liability must be in accordance with guidelines issued by the IRS and, pursuant to the Pension Protection Act of 2006 (PPA), must not be more than 5 percent above and must not be more than 10 percent below the weighted average of the rates of interest, as set forth by the Treasury Department, on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the 20**XX** plan year.

The current liability must be computed using the mortality tables referenced in section 1.431(c)(6)–1 of the Treasury Regulations.

Each other actuarial assumption used in calculating the current liability must be the same assumption used for calculating other costs for the funding standard account. See Notice 90–11, 1990–1 C.B. 319. The actuary must take into account rates of early retirement and the plan's early retirement and turnover provisions as they relate to benefits, where these would significantly affect the results. Regardless of the valuation date, current liability is computed taking into account only credited service through the end of the prior plan year. No salary scale projections should be used in these computations. Do not include the expected increase in current liability due to benefits accruing during the plan year reported on Line 1d(2)(b) in these computations.

Line 1d(2)(b). Expected Increase in Current Liability. Enter the amount by which the current liability is expected to increase due to benefits accruing during the plan year on account of credited service and/or salary changes for the current year. One year's salary scale may be reflected.

Line 1d(2)(c). Expected Release From Current Liability for the Plan Year. Enter the expected release from current liability on account of disbursements (including single-sum distributions) from the plan expected to be paid after the valuation date but prior to the end of the plan year (see also Q&A–7 of Rev. Rul. 96–21, 1996–1 C.B. 64).

Line 1d(3). Expected Plan Disbursements. Enter the amount of plan disbursements expected to be paid for the plan year.

Line 2. All entries must be reported as of the beginning of the 20**XX** plan year. Lines 2a and 2b should include all assets and liabilities under the plan except for assets and liabilities attributable to: (1) rollover amounts or other amounts in individual accounts that are not available to provide defined benefits, or (2) benefits for which an insurer has made an irrevocable commitment as defined in 29 CFR 4001.2.

Line 2a. Current Value of Assets. Enter the current value of net assets as of the first day of the plan year. Except for plans with excluded assets as described above, this entry should be the same as reported on the 20**XX** Schedule H (Form 5500) (line 1l, column (a)). Note that contributions designated for the 20**XX** plan year are not included on those lines.

Line 2b. Current Liability (beginning of plan year). Enter the current liability as of the first day of the plan year. Do not include the expected increase in current liability due to benefits accruing during the plan year. See the instructions for Line 1d(2)(a) for actuarial assumptions used in determining current liability.

Column (1)—Enter the number of participants and beneficiaries as of the beginning of the plan year. If the current liability figures are derived from a valuation that follows the first day of the plan year, the participant and beneficiary count entries should be derived from the counts used in that valuation in a manner consistent with the derivation of the current liability reported in column (2).

Column (2)—Include the current liability attributable to all benefits, with subtotals for vested and nonvested benefits in the case of active participants.

Line 2c. This calculation is required under ERISA section 103(d)(11). Do not complete if Line 2a divided by Line 2b(4), column (2), is 70% or greater.

Line 3. Contributions Made to Plan. Show all employer contribution amounts (column b), withdrawal liability payments (column c) and employee contribution amounts (column d) for the plan year. Employer contribution amounts should not include withdrawal liability payments which should be reported separately. Include employer contribution amounts and withdrawal liability payments made not later than 2½ months (or the later date allowed under Code section 431(c)(8) and ERISA section 304(c)(8)) after the end of the plan year. Show only contribution amounts and withdrawal liability payments actually made to the plan by the date this Schedule MB is signed.

Add the amounts in columns (b), (c) and (d) and enter the results on the total line. All contribution amounts and withdrawal liability payments must be credited toward a particular plan year.

Line 4. Information on Plan Status. All multiemployer plans regardless of the number of participants must provide the information indicated in accordance with these instructions.

Line 4a. All plans enter the funded percentage for monitoring the plan's status. This is Line 1b(2) divided by Line 1c(3).

Line 4b. Enter the code for the status of the multiemployer plan for the plan year, as certified by the plan actuary (or as elected by the plan sponsor in accordance with Code section 432(b)(4)(A) and ERISA section 305(b)(4)(A)), using one of the following codes:

Code	Plan Status
E	Endangered Status
S	Seriously Endangered Status
C	Critical Status
D	Critical and Declining Status
N	Not in Endangered or Critical Status

If the plan is certified to be in endangered status, seriously endangered status, critical status, or critical and declining status, attach a copy of the actuarial certification of such status to this Schedule MB. Also attach an illustration showing the details (including year-by-year cash flow projections demonstrating the solvency of the plan over the relevant period if the plan is certified as being in critical and declining status) providing support for the actuarial certification of status and label the illustration ***"Schedule MB, Line 4b—Illustration Supporting Actuarial Certification of Status."*** For example, if a plan is certified as being in critical status based on Code section 432(b)(2)(B), show the funded percentage (if applicable) and the projection of the funding standard account for the year in which the accumulated funding deficiency occurs. All supporting documentation should include descriptions of the assumptions used.

Line 4c. If, in the plan year in which the Schedule MB is filed, a certification was required to be made under Code section 432(b)(3)(A)(ii) and ERISA section 305(b)(3)(A)(ii) with respect to scheduled progress during the plan year for which the Schedule MB is filed, check "Yes" or "No" to reflect the certification. Attach documentation comparing the current status of the plan to the scheduled progress under the applicable funding improvement or rehabilitation plan to this Schedule MB. Label the documentation ***"Schedule MB, Line 4c—Documentation Regarding Progress Under Funding Improvement or Rehabilitation Plan."***

Lines 4d and 4e. If Code C (Critical Status) or Code D (Critical and Declining Status) was entered on Line 4b, an entry on line 4d is required. For purposes of Lines 4d and 4e, in determining whether benefits have been reduced, only adjustable benefits that would otherwise be protected under Code section 411(d)(6) and ERISA section 204(g) are taken into account if the plan is certified as in critical status. Plans that are certified as being in critical and declining status should determine whether benefits have been reduced, including all benefits that were adjusted (only adjustable benefits that would otherwise be protected under Code section 411(d)(6) and ERISA section 204(g) are taken into account), any benefits that have been suspended under Code section 432(e)(9), and any benefit reductions due to partition under ERISA section 4233. For a plan that has benefits suspended under Code section 432(e)(9) and/or partitioned under ERISA section 4233, attach a full description of the transaction and label the attachment ***"Schedule MB, Lines 4d and 4e—Description of Benefit Reductions Due to Suspension or Partition."*** In addition, only benefit reductions that are first reflected in Line 1c(3) for the current year's Schedule MB should be reported, and this amount should not include any amounts previously reported on any prior year's Schedule MB.

Line 4f. If Code C (Critical Status) or Code D (Critical and Declining Status) was entered on Line 4b you must complete Line 4f. If the rehabilitation plan projects emergence from critical status or critical and declining status, enter the plan year in which the plan is projected to emerge. If the rehabilitation plan is based on forestalling possible insolvency, check the box provided and enter the plan year in which the insolvency is expected.

Line 5. Actuarial Cost Method. Enter the primary method used. If the plan uses one actuarial cost method in one year as the basis of establishing an accrued liability for use under the frozen initial liability method in subsequent years, answer as if the frozen initial liability method was used in all years. The projected unit credit method is included in the "Accrued benefit (unit credit)" category of Line 5c. If a method other than a method listed on Lines 5a through 5g is used, check the box for Line 5i and specify the method. For example, if a modified individual level premium method for which actuarial gains and losses are spread as a part of future normal cost is used, check the box for 5i and describe the cost method.

Check the appropriate box for the underlying actuarial cost method used as the basis for this plan year's funding standard account computation. If box 5h is checked, enter the period of use of the shortfall method in Line 5j. For this purpose, enter the calendar year (YY) which includes the first day of the plan year in which the shortfall method was first used.

Changes in funding methods include changes in actuarial cost method, changes in asset valuation method, and changes in the valuation date of plan costs and liabilities or of plan assets. Changes in the funding method of a plan include not only changes to the overall funding method used by the plan, but also changes to each specific method of computation used in applying the overall method. Generally, these changes require IRS approval. If the change was made pursuant to Rev. Proc. 2000–40, 2000–2 C.B. 357, or pursuant to other automatic approval (such as the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. 111–192), check "Yes" for Line 5l. If approval was granted for this plan by either an individual ruling letter or a class ruling letter, enter the date of the applicable ruling letter in Line 5m. Note that the plan sponsor's agreement to certain changes in funding methods should be reported on Line 9 of Schedule R (Form 5500).

Shortfall Method: Only certain plans may elect the shortfall funding method (see

Treasury Regulations section 1.412(c)(1)–2). Advance approval from the IRS for the election of the shortfall method of funding is NOT required if it is first adopted for the first plan year to which Code section 412 applies. In addition, pursuant to PPA section 201(b), a plan does NOT need advance approval from the IRS to adopt or cease using the shortfall method if the plan (1) has not adopted or ceased using the shortfall method during the 5-year period ending on the day before the date the plan is to use the method, and (2) is not operating under an amortization period extension and did not operate under such an extension during such 5-year period. In such a case, check "Yes" for Line 5l. If a plan utilizes this automatic approval to apply the shortfall method, the benefit increase limitations of Code section 412(c)(7) apply.

If a plan is not eligible for automatic approval as set forth in the preceding paragraph, advance approval from the IRS is required if the shortfall funding method is adopted at a later time, if a specific computation method is changed, or if the shortfall method is discontinued. In such a case there is no automatic limitation on benefit increases.

Line 6. Actuarial Assumptions. If gender-based assumptions are used in developing plan costs, enter those rates where appropriate in Line 6. Note that requests for gender-based cost information do not suggest that gender-based benefits are legal. If unisex tables are used, enter the values in both "Male" and "Female" lines. Check "N/A" for Line 6b if the question is not applicable.

Attach a statement of actuarial assumptions (if not fully described by Line 6) and actuarial methods used to calculate the figures shown in Lines 1 and 9 (if not fully described by Line 5), and label the statement ***"Schedule MB, Line 6—Statement of Actuarial Assumptions/Methods."*** The statement must describe all actuarial assumptions used to determine the liabilities. For example, the statement for non-traditional plans (*e.g.,* cash balance plans) must include the assumptions used to convert balances to annuities.

Also attach a summary of the principal eligibility and benefit provisions on which the valuation was based, including the status of the plan (*e.g.,* eligibility frozen, service/pay frozen, benefits frozen), optional forms of benefits, special plan provisions, including those that apply only to a subgroup of employees (*e.g.,* those with imputed service), supplemental benefits, an identification of benefits not included in the valuation (*e.g.,* shutdown benefits), a description of any significant events that occurred during the year, a summary of any changes in principal eligibility or benefit provisions since the last valuation, a description (or reasonably representative sample) of plan early retirement factors, and any change in actuarial assumptions or cost methods and justifications for any such change (see section 103(d) of ERISA). Label the summary ***"Schedule MB, Line 6—Summary of Plan Provisions."***

Line 6a. Current Liability Interest Rate. Enter the interest rate used to determine current liability. The interest rate used must be in accordance with the guidelines issued by the IRS and, pursuant to PPA, must not be more than 5 percent above and must not be more than 10 percent below the weighted average of the rates of interest, as set forth by the Treasury Department, on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the 20**XX** plan year. Enter the rate to the nearest .01 percent.

Line 6b. Check "Yes," if the rates in the contract were used (*e.g.,* purchase rates at retirement).

Line 6c. Mortality Table. The mortality table published in section 1.431(c)(6)–1 of the Treasury Regulations must be used in the calculation of current liability for non-disabled lives. Enter the mortality table code for non-disabled lives used for valuation purposes as follows:

Mortality Table	Code
1951 Group Annuity	1
1971 Group Annuity Mortality (G.A.M.)	2
1971 Individual Annuity Mortality (I.A.M.)	3
UP–1984	4
1983 I.A.M	5
1983 G.A.M	6
1983 G.A.M. (solely per Rev. Rul. 95–28)	7
UP–1994	8
Mortality table applicable to current plan year under section 1.431(c)(6)–1 of the Income Tax Regulations	9
RP–2000	10
RP–2000 (with Blue Collar Adjustment)	11
Other	A
None	0

Code 6 includes all sex-distinct versions of the 1983 G.A.M. table other than the table published in Rev. Rul. 95–28, 1995–1 C.B. 74. Thus, for example, Code 6 also would include the 1983 G.A.M. male-only table used for males, where the 1983 G.A.M. male-only table with a 6-year setback is used for females. Code A includes mortality tables other than those listed in Codes 1 through 9, including any unisex version of the 1983 G.A.M. table.

Where an indicated table consists of separate tables for males and females, add F to the female table (*e.g.,* 1F). When a projection is used with a table, follow the code with "P" and the year of projection (omit the year if the projection is unrelated to a single calendar year); the identity of the projection scale should be omitted. When an age setback or set forward is used, indicate with "−" or "+" and the number of years. For example, if for females the 1951 Group Annuity Table with Projection C to 1971 is used with a 5-year setback, enter "1P71–5." If the table is not one of those listed, enter "A" with no further notation. If the valuation assumes a maturity value to provide the post-retirement income without separately identifying the mortality, interest and expense elements, enter on Line 6c, under "Post-retirement," the value of $1.00 of monthly pension beginning at the plan's weighted average retirement age, assuming the normal form of annuity for an unmarried person. In such a case, leave Lines 6d and 6e blank.

Line 6d. Valuation Liability Interest Rate. Enter the assumption as to the expected interest rate (investment return) used to determine all the calculated values except for current liability. If the assumed rate varies with the year, enter the weighted average of the assumed rate for 20 years following the valuation date. Enter rates to the nearest .01 percent.

Line 6e. Expense Loading. If there is no expense loading, check the "N/A" boxes under "Pre-retirement" and "Post-retirement". For instance, there would be no expense loading attributable to investments if the rate of investment return on assets is adjusted to take investment expenses into account. If there is a single expense loading not separately identified as pre-retirement or post-retirement, enter it under "Pre-retirement" and check the "N/A" box under "Post-Retirement." Where expenses are assumed other than as a percentage of plan costs or liabilities, enter the assumed pre-retirement expense as a percentage of the plan's normal cost, and enter the post-retirement expense as a percentage of plan liabilities. If the normal cost of the plan is zero, enter the assumed pre-retirement expense as a percentage of the sum of Lines 9c(1), 9c(2), and 9c(3), minus Line 9h. Enter rates to the nearest .1 percent.

Line 6f. Salary Scale. If a uniform level annual rate of salary increase is used, enter that annual rate. Otherwise, enter the level annual rate of salary increase that is equivalent to the rate(s) of salary increase used. Enter the annual rate as a percentage to the nearest .01 percent, used for a participant from age 25 to assumed retirement age. If the plan's benefit formula is not related to compensation, check the "N/A" box.

Line 6g. Estimated Investment Return—Actuarial Value. Enter on Line 6g(1) the estimated rate of return on the actuarial value of plan assets for the 1-year period ending on the valuation date. For this purpose, the rate of return is determined by using the formula $2I/(A + B - I)$, where I is the dollar amount of the investment return under the asset valuation method used for the plan, A is the actuarial value of the assets one year ago, and B is the actuarial value of the assets on the current valuation date. Enter rates to the nearest .1 percent. If entering a negative number, enter a minus sign ("−") to the left of the number.

Note. Use the above formula even if the actuary feels that the result of using the formula does not represent the true estimated rate of return on the actuarial value of plan assets for the 1-year period ending on the valuation date. The actuary may attach a statement showing both the actuary's estimate of the rate of return and the actuary's calculations of that rate, and label the statement ***"Schedule MB, Line 6g—Estimated Rate of Investment Return (Actuarial Value)."*** Check the box on Line 6g(2) if a statement is attached.

Line 6h. Estimated Investment Return—Current (Market) Value. Enter on Line 6h(1) the estimated rate of return on the current value of plan assets for the 1-year period ending on the valuation date. (The current value is the same as the fair market value—see Line 1b(1) instructions.) For this purpose, the rate of return is determined by using the formula $2I/(A + B - I)$, where I is the dollar amount of the investment return, A is the current value of the assets one year ago, and B is the current value of the assets on the current valuation date. Enter rates to the nearest .1 percent. If entering a negative number, enter a minus sign ("–") to the left of the number.

Note. Use the above formula even if the actuary feels that the result of using the formula does not represent the true estimated rate of return on the current value of plan assets for the 1-year period ending on the valuation date. The actuary may attach a statement showing both the actuary's estimate of the rate of return and the actuary's calculations of that rate, and label the statement ***"Schedule MB, Line 6h—Estimated Rate of Investment Return (Current Value)."*** Check the box on Line 6h(2) if a statement is attached.

Line 7. Schedule of Amortization Bases Established. List all amortization bases established in the current or prior plan years that have an outstanding balance as of the valuation date for the current plan year. Use the following table to indicate the type of base established and enter the appropriate code under "Type of base." List amortization bases and charges and/or credits as of the valuation date. Bases that are considered fully amortized because there is a credit for the plan year on Line 9j(3) should be listed. If entering a negative number, enter a minus sign ("–") to the left of the number.

Code	Type of Amortization Base
1	Experience gain or loss
2	Shortfall gain or loss
3	Change in unfunded liability due to plan amendment
4	Change in unfunded liability due to change in actuarial assumptions
5	Change in unfunded liability due to change in actuarial cost method
6	Waiver of the minimum funding standard
7	Initial unfunded liability (for new plan)

Line 8a and 8d. Funding Waivers or Extensions. If a funding waiver or extension request is approved after the Schedule MB is filed, an amended Schedule MB must be filed with Form 5500 to report the waiver or extension approval (also see instructions for Line 9k(1)).

Line 8b(1)(a). Schedule of Projection of Expected Benefit Payments. Check "Yes" only if this is a multiemployer plan covered by Title IV of ERISA that has 500 or more total participants as of the valuation date.

Line 8b(1)(b). If Line 8b(1)(a) is "Yes," on Line 8b(1)(b), provide a projection of benefits expected to be paid for the entire plan (not to include expected expenses) in each of the next ten years starting with the current plan year of this filing assuming (1) no additional accruals, (2) experience (*e.g.*, termination, mortality, and retirement) are in line with valuation assumptions, and (3) no new entrants are covered by the plan.

Line 8b(2)(a). Schedule of Active Participant Data. Check "Yes" on Line 8b(2)(a) only if this is a multiemployer plan covered by Title IV of ERISA that has active participants. If Line 8(2)(a) is "Yes," complete the schedule in Line 8b(2)(b) with the active plan participant data used in the valuation for this plan year and enter the average age and average credited service of the active participants as of the valuation date on Lines 8b(2)(c) and 8b(2)(d), respectively.

Include all active participants in the averages, even ones that are not required to be shown in the schedule under the instructions below.

For each column, enter the number of active participants with the specified number of years of credited service divided according to age group. For participants with partial years of credited service, round the total number of years of credited service to the next lower whole number. Years of credited service are the years credited under the plan's benefit formula.

Plans reporting 1,000 or more active participants on Line 2b(3)(c), column (1), and using compensation to determine benefits, must also provide average compensation data. For each grouping, enter the average compensation of the active participants in that group. For this purpose, compensation is the compensation taken into account for each participant under the plan's benefit formula, limited to the amount defined under section 401(a)(17) of the Code. Do not enter the average compensation in any grouping that contains fewer than 20 participants.

Cash balance plans (or any similar plans) reporting 1,000 or more active participants on Line 2b(3)(c), column (1), must also provide average cash balance account data, regardless of whether all active participants have cash balance accounts. For each age/service bin, enter the average cash balance account of the active participants in that bin. Do not enter the average cash balance account in any age/service bin that contains fewer than 20 active participants.

General Rule. In general, data to be shown in each age/service bin includes:

1. the number of active participants in the age/service bin,
2. the average compensation of the active participants in the age/service bin, and
3. the average cash balance account of the active participants in the age/service bin, using $0 for anyone who has no cash balance account-based benefit.

If the accrued benefit is the greater of a cash balance benefit or some other benefit, average in only the cash balance account. If the accrued benefit is the sum of a cash balance account benefit and some other benefit, average in only the cash balance account. For both the average compensation and the average cash balance account, do not enter an amount for age/service bins with fewer than 20 active participants.

In lieu of the above, two alternatives are provided for showing compensation and cash balance accounts. Each alternative provides for two age/service scatters (one showing compensation and one showing cash balance accounts) as follows:

Alternative A:

- Scatter 1—Provide participant count and average compensation for *all* active participants, whether or not participants have account-based benefits.
- Scatter 2—Provide participant count and average cash balance account for *all* active participants, whether or not participants have account-based benefits.

Alternative B:

- Scatter 1—Provide participant count and average compensation for *all* active participants, whether or not participants have account-based benefits (*i.e.*, identical to Scatter 1 in Alternative A).
- Scatter 2—Provide participant count and average cash balance account **for only those active participants with account based benefits.** If the number of participants with account-based benefits in a bin is fewer than 20, the average account should not be shown even if there are more than 20 active participants in this bin on Scatter 1.

In general, information should be determined as of the valuation date. Average cash balance accounts may be determined as of either:

1. the valuation date or
2. the day immediately preceding the valuation date.

Average cash balance accounts that are offset by amounts from another plan may be reported either as amounts prior to taking into account the offset or as amounts after taking into account the offset. Do not report the offset amount. For this or any other unusual or unique situation, the attachment should include an explanation of what is being provided.

Line 8b(3)(a). Schedule of Retired Participants and Beneficiaries Receiving Payment Data. Check "Yes" only if this is a multiemployer plan covered by Title IV of ERISA that has retired participants and beneficiaries. If Line 8b(3)(a) is "Yes," complete the schedule in Line 8b(3)(b) with the retired plan participant and beneficiaries receiving payment data used in the valuation for this plan year and enter the average age and average in-pay annual benefit as of the valuation date of the retired participants and beneficiaries on Lines 8b(3)(c) and 8b(3)(d), respectively. Do not report average annual in-pay benefit information for age brackets where there are 10 or less retired participants and beneficiaries receiving payment in the average.

Line 8b(4)(a). Schedule of Terminated Vested Participant Data. Check "Yes" only if this is a multiemployer plan covered by Title IV of ERISA that has terminated vested participants. If Line 8b(4)(a) is "Yes," complete the schedule in Line 8b(4)(b) with the terminated vested participant data used in the valuation for this plan year and enter the average age and average annual benefit as of the valuation date of the terminated vested participants in Line 8b(4)(c) and 8b(4)(d), respectively. Do not report average annual benefit information for age brackets where there are 10 or less terminated vested participants in the average. Include the assumed form of payment and the assumed first age of payment in Lines 8b(4)(e) and 8b(4)(f), respectively, for the benefit amounts shown in the schedule.

Line 9. Shortfall Method. Under the shortfall method of funding, the normal cost in the funding standard account is the charge per unit of production (or per unit of service) multiplied by the actual number of units of production (or units of service) that occurred during the plan year. Each amortization installment in the funding standard account is similarly calculated.

Line 9c. Amortization Charges. The outstanding balance and amortization charges and credits must be calculated as of the valuation date for the plan year. Line 9c(3) should only include information related to the amortization bases extended and amortized using the interest rate under section 6621(b) of the Code.

Line 9d. Interest as Applicable. Interest as applicable should be charged to the last day of the plan year.

Line 9f. Note that the credit balance or funding deficiency at the end of "Year X" should be equal to the credit balance or funding deficiency at the beginning of "Year X+1." If such credit balances or funding deficiencies are not equal, check the box on Line 9f(2), attach an explanation and label the attachment ***"Schedule MB, Line 9f—Explanation of Prior Year Credit Balance/Funding Deficiency Discrepancy."*** For example, if the difference is because contributions for a prior year that were not previously reported are received this plan year, attach a listing of the amounts and dates of such contributions. As another example, if the difference is due to the application of funding relief under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. 111–192, the attachment should show how the information on the Schedule MB filed for any previous plan year would have differed if it had reflected application of the special funding relief in accordance with published guidance (to the extent that the plan sponsor has applied the special funding relief).

Line 9h. Amortization Credits. The outstanding balance and amortization credits must be calculated as of the valuation date.

Line 9j(1). ERISA Full Funding Limitation. Instructions for this line are reserved pending published guidance.

Line 9j(2). "RPA '94" Override. Instructions for this line are reserved pending published guidance.

Line 9j(3). Full Funding Credit. Enter the excess of (1) the accumulated funding deficiency, disregarding the credit balance and contributions for the current year, if any, over (2) the greater of Lines 9j(1) or 9j(2).

Line 9k(1). Waived Funding Deficiency Credit. Enter a credit for a waived funding deficiency for the current plan year (Code section 431(b)(3)(C)). If a waiver of a funding deficiency is pending, report a funding deficiency. If the waiver is granted after Form 5500 or Form 5500–SF is filed, file an amended Form 5500 or Form 5500–SF, as applicable, with an amended Schedule MB to report the funding waiver (see *Amended Return/Report* in the instructions for Form 5500 or *Line B—Box for Amended Return/Report* in the instructions for Form 5500–SF, as applicable).

Line 9k(2). Other Credits. Enter a credit in the case of a plan for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard.

Line 9o. Reconciliation Account. The reconciliation account is made up of those components that upset the balance equation of Treasury Regulations section 1.412(c)(3)–1(b). Valuation assets must not be adjusted by the reconciliation account balance when computing the required minimum funding.

Line 9o(1). This amount is equal to the prior year's accumulated reconciliation amount due to prior waived funding deficiencies, increased with interest at the valuation rate to the current valuation date.

Line 9o(2)(a). If an amortization extension is being amortized at an interest rate that differs from the valuation rate, enter the prior year's "reconciliation amortization extension outstanding balance," increased with interest at the valuation interest rate to the current valuation date, and decreased by the year end amortization amount based on the amortization interest rate from the prior plan year.

Line 9o(3). Enter the sum of Lines 9o(1) and 9o(2)(b) (each adjusted with interest at the valuation rate to the current valuation date, if necessary).

Note. The net outstanding balance of amortization charges and credits minus the prior year's credit balance minus the amount on Line 9o(3) (each adjusted with interest at the valuation rate, if necessary) must equal the unfunded liability.

Line 10. Contribution Necessary to Avoid Deficiency. Enter the amount from Line 9n. If applicable, file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the excise tax on the funding deficiency. There is a penalty for not filing the Form 5330 on time.

Line 11. In accordance with ERISA section 103(d)(3), attach a justification for any change in actuarial assumptions for the current plan year and label the attachment—***"Schedule MB, Line 11—Justification for Change in Actuarial Assumptions."***

20XX Instructions for Schedule R (Form 5500) (Retirement Plan Information)

General Instructions

Purpose of Schedule

Schedule R (Form 5500) reports certain information on retirement plan distributions, funding, nondiscrimination, coverage, and the adoption of amendments, as well as certain information on single-employer and multiemployer defined benefit pension plans.

Electronic Attachments. All attachments to Schedule R must be properly identified, must include the name of the plan, plan sponsor's EIN, and plan number. Place "Schedule R" and the Schedule R line number at the top of each attachment to identify the information to which the attachment relates. Do not include attachments that contain a visible social security number. The Schedule R and its attachments are open to public inspection, and the contents are subject to publication on the Internet. Because of privacy concerns, the inclusion of a visible social security number or any portion thereof on an attachment may result in the rejection of the filing.

Who Must File

Schedule R must be attached to a Form 5500 filed for both tax-qualified and nonqualified pension benefit plans. The parts of Schedule R that must be completed depend on whether the plan is subject to the minimum funding standards of Code section 412 or ERISA section 302 and the type of plan. See line item requirements under *Specific Instructions* for more details.

Exceptions: Schedule R should not be completed when the Form 5500 Annual Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 Annual Return/Report instructions for *Limited Pension Plan Reporting* for more information.

Check the Schedule R box on the Form 5500 (Part II, Line 10a(1)) if a Schedule R is attached to the Form 5500.

Specific Instructions

Lines A, B, C, and D. This information must be the same as reported in Part II of the Form 5500 to which this Schedule R is attached.

Do not use a social security number in Line D instead of an EIN. Schedule R and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on Schedule R or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, see *Section 3: Electronic Filing Requirement.* The EBSA does not issue EINs.

"Participant" for purposes of Schedule R, means any present or former employee who at any time during the plan year had an accrued benefit in the plan (account balance in a defined contribution pension plan).

Part I—Distributions

"Distribution" includes only payments of benefits during the plan year, in cash, in kind, by purchase for the distributee of an annuity contract from an insurance company, or by distribution of life insurance contracts. It does not include:

1. Corrective distributions of excess deferrals, excess contributions, or excess aggregate contributions, or the income allocable to any of these amounts;
2. Distributions of automatic contributions pursuant to Code section 414(w);
3. The distribution of elective deferrals or the return of employee contributions to correct excess annual additions under Code section 415, or the gains attributable to these amounts; and
4. A loan deemed as a distribution under Code section 72(p).

Note. It does, however, include a distribution of a plan loan offset amount as defined in Treasury Regulations section 1.402(c)–2, Q&A 9(b).

Line 1. Enter the total value of all distributions made during the year (regardless of when the distribution began) in any form other than cash, annuity contracts issued by an insurance company, distribution of life insurance contracts, marketable securities within the meaning of Code section 731(c)(2), or plan loan offset amounts. Do not include eligible rollover distributions paid directly to eligible retirement plans in a direct rollover under Code section 401(a)(31) unless such direct rollovers include property other than that enumerated in the preceding sentence.

Line 2. Enter the EIN(s) of any payor(s) (other than the plan sponsor or plan administrator on Line 2b or 3b of the Form 5500) who paid benefits reportable on IRS Form 1099–R on behalf of the plan to participants or beneficiaries during the plan year. This is the EIN that appears on the IRS Forms 1099–R that are issued to report the payments. Include the EIN of the trust if different than that of the sponsor or plan administrator. If more than two payors made such payments during the year, enter the EINs of the two payors who paid the greatest dollar amounts during the year. For purposes of this Line 2, take into account all payments made during the plan year, in cash or in kind, that are reportable on IRS Form 1099–R, regardless of when the payments began, but take into account payments from an insurance company under an annuity only in the year the contract was purchased.

Line 3. Enter in the appropriate location, broken out by active, terminated vested, and retired, the number of living or deceased participants whose benefits under the plan were distributed during the plan year in the form of a single-sum distribution, either as an annuity or a lump sum. For this purpose, a distribution of a participant's benefits will not fail to be a single-sum distribution merely because, after the date of the distribution, the plan makes a supplemental distribution as a result of earnings or other adjustments made after the date of the single-sum distribution. Also include any participants whose benefits were distributed in the form of a direct rollover to the trustee or custodian of a qualified plan or individual retirement account. Profit-sharing plans, ESOPs, and stock bonus plans skip Line 3.

Line 4. Check "Yes" if the required minimum distributions were made to 5% owners who attained age 70½ and older. Required Minimum Distributions (RMDs) generally are minimum amounts that a retirement plan account owner must withdraw annually starting with the year that he or she reaches 70½ years of age or, if later, the year in which he or she retires. However, if the account owner is a 5% owner of the business sponsoring the retirement plan, the RMDs must begin once the account holder is age 70½, regardless of whether he or she is retired.

Note. You must complete Line 4 if you are required to file at least 250 returns of any type with the IRS during the calendar year. However, if you are a small filer (files fewer than 250 returns of any type with the IRS including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns during the calendar year), and you do not complete this line, then you must file the paper Form 5500–SUP with the IRS. See Instructions for Form 5500–SUP for more information.

Part II—Funding Information

Complete Part II only if the plan is subject to the minimum funding requirements of Code section 412 or ERISA section 302.

All qualified defined benefit and defined contribution pension plans are subject to the minimum funding requirements of Code section 412 unless they are described in the exceptions listed under Code section 412(e)(2). These exceptions include profit-sharing or stock bonus plans, insurance contract plans described in Code section 412(e)(3), and certain plans to which no employer contributions are made.

Nonqualified employee pension benefit plans are subject to the minimum funding requirements of ERISA section 302 unless specifically exempted under ERISA sections 4(a) or 301(a). The employer or plan administrator of a single-employer or multiple-employer defined benefit pension plan that is subject to the minimum funding requirements must file Schedule SB as an attachment to Form 5500. Schedule MB is filed for multiemployer defined benefit pension plans and certain money purchase defined contribution pension plans (whether they are single-employer or multiemployer plans). However, Schedule MB is not required to be filed for a money purchase defined contribution pension plan that is subject to the minimum funding requirements unless the plan is currently amortizing a waiver of the minimum funding requirements.

Line 5. Check "Yes" if, for purposes of computing the minimum funding requirements for the plan year, the plan administrator is making an election intended to satisfy the requirements of Code section 412(d)(2) or ERISA section 302(d)(2). Under Code section 412(d)(2) and ERISA section 302(d)(2), a plan administrator may elect to have any amendment, adopted after the close of the plan year for which it applies, treated as having been made on the first day of the plan year if all of the following requirements are met:

1. The amendment is adopted no later than two and one-half months (two years for a multiemployer plan) after the close of such plan year;
2. The amendment does not reduce the accrued benefit of any participant determined as of the beginning of such plan year; and
3. The amendment does not reduce the accrued benefit of any participant determined as of the adoption of the amendment unless the plan administrator notified the Secretary of the Treasury of the amendment and the Secretary either approved the amendment or failed to disapprove the amendment within 90 days after the date the notice was filed. See Treasury Temporary Regulations section 11.412(c)–7(b) for details on when and how to make the election and what information to include on the statement of election, which must be filed with the Form 5500 Annual Return/Report.

Line 6. If a money purchase defined contribution pension plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, complete Lines 3, 9, and 10 of Schedule MB. See instructions for Schedule MB. Attach Schedule MB to Form 5500. The Schedule MB for a money purchase defined contribution pension plan does not need to be signed by an enrolled actuary.

Line 7a. The minimum required contribution for a money purchase defined contribution pension plan (including a target benefit plan) for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 7b. Include all contributions for the plan year made not later than 8½ months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed. For example, do not include receivable contributions for this purpose.

Line 7c. If the minimum required contribution exceeds the contributions for the plan year made not later than 8½ months after the end of the plan year, the excess is an accumulated funding deficiency for the plan year. File IRS **Form 5330**, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing IRS Form 5330 on time.

Line 8. Check "Yes" if the minimum required contribution remaining in Line 7c will be made not later than 8½ months after the end of the plan year. If "Yes," and contributions are actually made by this date, then there will be no reportable deficiency and IRS Form 5330 will not need to be filed.

Line 9. Revenue Procedure 2000–40, 2000–2 C.B. 357, providing for automatic approval for a change in funding method for a plan year, generally does not apply unless the plan administrator or an authorized representative of the plan sponsor explicitly agrees to the change. If a change in funding method made pursuant to such a revenue procedure (or a class ruling letter) is to be applicable for the current plan year, this line generally must be checked "Yes." In certain situations, however, the requirement that the plan administrator or an authorized representative of the plan sponsor agree to the change in funding method will be satisfied if the plan administrator or an authorized representative of the plan sponsor is made aware of the change.

In these situations, this line must be checked "N/A." See section 6.01(2) of Rev. Proc. 2000–40. If the plan's change in funding method is not made pursuant to a revenue procedure or other authority providing automatic approval which requires plan sponsor agreement, or to a class ruling letter (*e.g.,* it is pursuant to a regulation or the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. 111–192), then this line should be checked "N/A."

Part III—Determination and Amendments

Line 10. If this is a defined benefit pension plan, indicate as follows whether there were any amendments adopted during this plan year that increased or decreased the value of benefits:

- Check "No" if no amendments were adopted during this plan year that increased or decreased the value of benefits.
- Check "Increase" if an amendment was adopted during the plan year that increased the value of benefits in any way. This includes an amendment providing for an increase in the amount of benefits or rate of accrual, more generous lump sum factors, COLAs, more rapid vesting, additional payment forms, or earlier eligibility for some benefits.
- Check "Decrease" if an amendment was adopted during the plan year that decreased the value of benefits in any way. This includes a decrease in future accruals, closure of the plan to new employees, or accruals being frozen for some or all participants.
- If the amendments that were adopted increased the value of some benefits but decreased the value of others, check "Both."

Line 11a. If a plan sponsor or an employer adopted a pre-approved plan that includes a master & prototype plan (a standardized or nonstandardized M&P) or a volume submitter plan, enter the date of the most recent favorable opinion or advisory letter issued by the IRS and the serial number listed on that favorable letter.

Line 11b. If it is an individually-designed plan and received a favorable determination letter from the IRS, enter the date of the most recent determination letter. Leave it blank if this individual-designed plan has never received a favorable determination letter.

Part IV—Additional Employer Information for Multiemployer Defined Benefit Pension Plans

If this is not a multiemployer plan, skip this Part.

Required attachments. Multiemployer defined benefit pension plans that are in Endangered Status or Critical Status must attach a summary of their Funding Improvement Plan or Rehabilitation Plan (as updated, if applicable) and also any update to a Funding Improvement Plan or Rehabilitation Plan.

The summary of any Funding Improvement Plan or Rehabilitation Plan must reflect such plan in effect at the end of the plan year (whether the original Funding Improvement Plan or Rehabilitation Plan or as updated) and must include a description of the various contribution and benefit schedules that are being provided to the bargaining parties and any other actions taken in connection with the Funding Improvement Plan or Rehabilitation Plan, such as use of the shortfall funding method or extension of an amortization period. The summary must also identify the first year and the last year of the Funding Improvement Period or the Rehabilitation Period. If an extended Funding Improvement Period (of 13 or 18 years) or Rehabilitation Period (of 13 years) applies because of an election under section 205 of the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), the summary must include a statement to that effect and the date that the election was filed with the IRS.

The summary must also include a schedule of the expected annual progress for the funded percentage or other relevant factors under the Funding Improvement Plan or Rehabilitation Plan. If the sponsor of a multiemployer plan in Critical Status has determined that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot emerge from Critical Status by the end of the Rehabilitation Period as described in Code section 432(e)(3)(A)(ii), the summary must include an explanation of the alternatives considered, why the plan is not reasonably expected to emerge from Critical Status by the end of the Rehabilitation Period, and when, if ever, it is expected to emerge from Critical Status under the Rehabilitation Plan.

The plan sponsor is required to annually update a Funding Improvement Plan or Rehabilitation Plan that was adopted in a prior year. The update must be filed as an attachment to the Schedule R. The update attachment must identify the modifications made to the Funding Improvement Plan or Rehabilitation Plan during the plan year, including contribution increases, benefit reductions, or other actions.

The attachment described above must be labeled **"Schedule R, Summary of Funding Improvement Plan,"** or **"Schedule R, Summary of Rehabilitation Plan"** as appropriate, and if applicable, **"Schedule R, Update of Funding Improvement Plan or Rehabilitation Plan."** Each attachment must also include the plan name, the plan sponsor's name and EIN, and the plan number.

Line 12. This line should be completed only by multiemployer defined benefit pension plans that are subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA). Enter the information on Lines 13a through 13e for any employer that contributed more than five (5) percent of the plan's total contributions for the 20XX plan year. List employers in descending order according to the dollar amount of their contributions to the plan. Complete as many entries as are necessary to list all employers that contributed more than five (5) percent of the plan's contributions.

Line 12a. Enter the name of the employer contributing to the plan.

Line 12b. Enter the EIN of the employer contributing to the plan. Do not enter a social security number in lieu of an EIN; therefore, ensure that you have the employer's EIN and not a social security number. The Form 5500 Annual Return/Report is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this line may result in the rejection of the filing.

EINs can be obtained from the IRS online, by telephone, by fax, or by mail depending on when you need to use the EIN. For more information, see Section 3: Electronic Filing Requirement. The EBSA does not issue EINs.

Line 12c. Dollar Amount Contributed. Enter the total dollar amount contributed to the plan by the employer for all covered workers in all locations for the plan year. Do not include the portion of an aggregated contribution that is for another plan, such as a welfare benefit plan, a defined contribution pension plan or another defined benefit pension plan.

Line 12d. Collective Bargaining Agreement Expiration Date. Enter the date on which the employer's collective bargaining agreement expires. If the employer has more than one collective bargaining agreement requiring contributions to the plan, check the box and include, as an attachment, the expiration date of each collective bargaining agreement (regardless of the amount of contributions arising from such agreement). Label the attachment: ***"Schedule R, line 12d—Collective Bargaining Agreement Expiration Date."*** Include the plan name and the sponsor's name and EIN.

Line 12e. Contribution Rate Information. Enter the contribution rate (in dollars and cents) per contribution base unit in Line 12e(1) and the base unit measure in Line 12e(2). Indicate whether the base unit is measured on an hourly, weekly, unit-of-production, or other basis. If "Other," specify the base unit measure used. If the contribution rate changed during the plan year, enter the last contribution rate in effect for the plan year.

If the employer has different contribution rates for different classifications of employees or different places of business, check the box in the first line of Line 12e and list in an attachment each contribution rate and corresponding base unit measure under which the employer made contributions (regardless of the amount of contributions resulting from each rate). Label the attachment: ***"Schedule R, Line 12e—Information on Contribution Rates and Base Units."*** Include the plan name and the sponsor's name and EIN.

Line 13. Enter the number of participants on whose behalf no contributions were made by an employer as an employer of the participant. For purposes of Line 13, count only those participants whose last contributing employer had withdrawn from the plan by the beginning of the relevant plan year. Disregard any participants whose employers had not withdrawn from the plan, even if, in the relevant year, no contributions were made by the employer on behalf of those participants. Thus, for the limited purposes of Line 13 and notwithstanding any contrary definition of such participants applicable elsewhere, the deferred vested and retired participants of employers who have not withdrawn from the plan should not be included in these numbers.

Note. Withdrawal liability payments are not to be treated as contributions for the purpose of determining the number of participants for Line 13.

Line 13a. Enter the number of participants for the 20XX plan year described in the Line 13 instructions.

Line 13b. Enter the number of participants for the 20XX–1 plan year described in the Line 13 instructions.

Line 13c. Enter the number of participants for the 20XX–2 plan year described in the Line 13 instructions.

Line 14. Enter the ratio of number of participants on whose behalf no employer had an obligation to make a contribution for the 20**XX** plan year to the corresponding number for each of the two preceding plan years. For the purpose of these ratios, count all participants whose employers have withdrawn from the plan as well as all deferred vested and retired participants of employers still active in the plan (unless the collective bargaining agreement specifically requires the employer to make contributions for such participants).

Line 14a. Enter the ratio of the number of participants as described in the Line 14 instructions for the 20**XX** plan year to the number for the 20**XX–1** plan year.

Line 14b. Enter the ratio of the number of participants as described on the Line 14 instructions for the 20**XX** plan year to the number for the 20**XX–2** plan year.

Note. Withdrawal liability payments are not to be treated as contributions for determining the number of participants on Line 14.

Line 15a. Enter the number of employers that withdrew from the plan during the 20**XX–1** plan year.

Line 15b. If Line 15a is greater than zero, enter the aggregate amount of withdrawal liability assessed against these employers. If the withdrawal liability for one or more withdrawing employers has not yet been determined, include the amounts estimated to be assessed against them in the aggregate amount.

The definitions of withdrawal are those contained in Section 4203 of ERISA. If the plan is in the building and construction, entertainment, or another industry that has special withdrawal rules, withdrawing employers should only be counted if the withdrawal adheres to the special rules applying to its specific industry.

Line 16. If assets and liabilities from another plan were transferred to or merged with the assets and liabilities of this plan during the 20XX plan year, check the box and provide the following information as an attachment. The attachment should include the names and employer identification numbers of all plans that transferred assets and liabilities to, or merged with, this plan. For each plan, including this plan, the attachment should also include the actuarial valuation of the total assets and total liabilities for the year preceding the transfer or merger, based on the most recent data available as of the day before the first day of the 20**XX** plan year. Label the attachment ***"Schedule R, Line 16—Information on Assets and Liabilities Transferred to or Merged with This Plan"*** and include the plan name and the plan sponsor's name and EIN.

Part V—Additional Information for Single-Employer and Multiemployer Defined Benefit Pension Plans

Line 17. If any liabilities to participants or their beneficiaries under the plan at the end of the plan year consist of liabilities under two (2) or more plans as of the last day of the plan year immediately before the 20**XX** plan year, check the box and provide the following information as an attachment. The attachment should include the names, employer identification numbers, and plan numbers of all plans, including the current plan, that provided a portion of liabilities of the participants and beneficiaries in question. The attachment should also include the funding percentage of each plan as of the last day of the 20**XX–1** plan year. For single-employer plans, the funding percentage is the funding target attainment percentage, where the numerator is the value of plan assets reduced by the sum of the amount of the prefunding balance and the funding standard carryover balance, and the denominator is the funding target for the plan (for this purpose, if the plan is in at risk status, then the funding target is determined as if the plan were not in at risk status). For multiemployer plans, the funding percentage is the ratio where the numerator is the actuarial value of the plan's assets and the denominator is the accrued liability of the plan. For a terminated plan for which the funding percentage is required to be reported, write "Terminated" in the space where the plan's funding percentage would otherwise have been reported. Label the attachment ***"Schedule R, Line 17—Funded Percentage of Plans Contributing to the Liabilities of Plan Participants"*** and include the plan name and the plan sponsor's name and EIN.

Line 18. This line must be completed for all defined benefit pension plans (except DFEs) with 1,000 or more participants at the beginning of the plan year. To determine if the plan has 1,000 or more participants, use the participant count shown on Line 3d(1) of the Schedule SB for single-employer plans or on Line 2b(4)(1) of the Schedule MB for multiemployer plans.

Line 18a. Show the beginning-of-year distribution of assets for the categories shown. Use the market value of assets and do not include the value of any receivables. These percentages, expressed to the nearest whole percent, should reflect the total assets held in stocks, investment-grade debt instruments, high-yield debt instruments, real estate, or other asset classes, regardless of how they are listed on the Schedule H. The percentages in the five categories should sum to 100 percent. Assets held in trusts, accounts, mutual funds, and other investment arrangements should be disaggregated and properly distributed among the five asset components. The assets in these trusts, accounts, mutual funds, and investment arrangements should not be included in the "Other" component unless these investments contain no stocks, bonds, or real estate holdings. The same methodology should be used in disaggregating trust assets as is used when disclosing the allocation of plan assets on the sponsor's 10–K filings to the Securities and Exchange Commission. Real estate investment trusts (REITs) should be listed with stocks, while real estate limited partnerships should be included in the Real Estate category.

Investment-grade debt-instruments are those with an S&P rating of BBB—or higher, a Moody's rating of Baa3 or higher, or an equivalent rating from another rating agency. High-yield debt instruments are those that have ratings below these rating levels. If the debt does not have a rating, it should be included in the "high-yield" category if it does not have the backing of a government entity. Unrated debt with the backing of a government entity would generally be included in the "investment-grade" category unless it is generally accepted that the debt should be considered as "high-yield." Use the ratings in effect as of the beginning of the plan year.

Line 18b. Check the box that shows the average duration of the plan's combined investment-grade and high-yield debt portfolio. If the average duration falls exactly on the boundary of two boxes, check the box with the lower duration. To determine the average duration, use the "effective duration" or any other generally accepted measure of duration. Report the duration measure used in Line 19c. If debt instruments are held in multiple debt portfolios, report the weighted average of the average durations of the various portfolios where the weights are the dollar values of the individual portfolio.

Part VI Nondiscrimination and Coverage

Note. You must complete this part from Lines 19 through 21 if you are required to file at least 250 returns of any type with the IRS, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns, during the calendar year. However, if you are a small filer (files fewer than 250 returns of any type with the IRS during the calendar year), and you do not complete these lines, you must file Form 5500–SUP with the IRS on paper. See the Treasury regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media" (See 79 FR 58256 at *http://federalregister.gov/a/2014-23161*) and Instructions for Form 5500–SUP for more information.

19a. Check "Yes" if the plan includes a cash or deferred arrangement (CODA), under which a covered employee may elect to have the employer either contribute an amount to the plan's trust on behalf of the employee or to pay the employee directly in cash or some other taxable benefit. The contributions go into an individual account, with the employee often choosing the investments based on options provided under the plan. In some plans, the employer also makes contributions, such as contributions that match the employee's contributions up to a certain percentage.

Line 19b. If Line 19a is "Yes," check the applicable method used to satisfy the nondiscrimination requirements of Code section 401(k). A safe harbor 401(k) plan is similar to a traditional 401(k) plan but, among other things, it must provide for employer contributions. These contributions may be employer matching contributions, limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals. The safe harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans. Check "Design-based safe harbor method" if this is a safe harbor 401(k) plan that is a SIMPLE 401(k) plan under Code section 401(k)(11), a safe harbor 401(k) plan under Code section 401(k)(12), or a qualified automatic contribution arrangement under Code section 401(k)(13).

If the plan, by its terms, does not satisfy the safe harbor method, it generally must satisfy the regular nondiscrimination test, known as the actual deferral percentage (ADP) test. Check the appropriate box to indicate if the plan uses the "current year" ADP test or the "prior year" ADP test. Check "current year" ADP test if the plan uses the current year testing method under which the ADP test is performed by comparing the current plan year's ADP for HCEs with the current plan year's (rather than the prior plan year's) ADP for NHCEs. Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis. Check "N/A" if the plan is not required to test for nondiscrimination under Code section 401(k)(3), such as a plan in which no HCE is benefiting.

Line 20a. Check the applicable testing method used to satisfy the minimum coverage requirements under Code section 410(b). Check "N/A" if the plan is deemed to satisfy section 410(b) automatically, such as a plan in which no HCE is benefitting. Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis.

Line 20b. Check "Yes" if this plan was permissively aggregated with another plan to satisfy requirements under Code sections 410(b) and 401(a)(4). Generally, each single plan must separately satisfy the coverage and nondiscrimination requirements. However, an employer may designate two or more separate plans as a single plan for purposes of applying the ratio percentage test of Treasury Regulations section 1.410(b)–2(b)(2) or the nondiscretionary classification test of Treasury Regulations section 1.401(b)–4. Two or more plans that are permissively aggregated and treated as a single plan for purposes of the minimum coverage test of Code section 410(b) must also be treated as a single plan for purpose of the nondiscrimination test under Code section 401(a)(4). See Treasury Regulations sections 1.410(b)–7 and 1.401(a)(4)–(9) for more information.

Line 21. Check "Yes" if the plan does not satisfy any exceptions under Treasury Regulation section 1.401(a)26)–1(b) if it benefitted at least the lesser of: 50 employees of the employer, or the greater of: 40 percent of all employees of the employer, or 2 employees (or if there is only 1 employee, such employer). The definition of employer includes all related employers under Code sections 414(b), (c) or (m). In performing the participation tests, the employees who are excludable are generally the same as those who are excludable for purposes of performing coverage tests under Code section 410(b), see Treasury Regulation section 1.401(a)(26)–6. In addition, for most plans the definition of who is benefiting under the plan for the purposes of the participation tests is the same as the definition of benefiting employees for purposes of coverage tests under Code section 410(b), see Treasury Regulation section 1.401(a)(26)–5.

Part VII Participation Information in Defined Contribution Pension Plans

Line 22. Employer Contributions. Check "Yes" in Line 22a if the employer provided contributions to the participant's defined contribution pension account regardless of whether the participant made any contributions. If "Yes" is checked in Line 22a, enter in Line 22b the appropriate line the formula describing how the amount of such employer contributions was determined. See formula examples below.

Example 1: The employer provided 1.5% of compensation for each participant. Check the "% of a participant's compensation" formula and enter "***1.5***" in the corresponding amount line.

Example 2: The employer provided one flat dollar amount ($500) to each participant. Check the "$ per participant" formula and enter "***500***" in the corresponding amount line.

Example 3: The employer used a different kind of formula or method. Check "Other" and enter a description in the text field.

Line 23. Employer Matching Contributions. If the plan offers employer matching contributions, check "Yes" in Line 23a. If you checked "Yes" in Line 23a, check the appropriate box in Line 23b to identify the formula used to determine the amount of the employer matching contribution for each participant. If the employer matches participant contributions at a certain rate up to a limit, check "% of a participant's contribution up to a limit" and enter the percentage. In Line 23c, enter the maximum employer contribution by checking the applicable box and providing either the percentage of a participant's compensation or the dollar amount that corresponds to the maximum. If the plan uses a different type of formula, check "Other" and describe the formula in the open text field. See formula examples below.

Example 1: The employer provides a 50% match on participant contributions of up to 6% of the participant's compensation. When the participant is contributing at or above the maximum, the employer contributes 3% of the participant's compensation. Check the "% of a participant's contribution up to a limit" formula and enter "***50***". The maximum match that the employer will contribute is "***3***".

Example 2: The employer provides a 50% match on a participant's contributions up to $3,000 contribution by the employee. At that maximum level the employer would be contributing $1,500. Check the "$ per participant" formula and enter "***1500***" in the corresponding amount line.

Example 3: The employer provides 100% match up to the first 3% of employee's salary deferrals and 50% for the next 2%. Check the "Other" box and describe the formula in the open text field.

Line 24. Automatic Enrollment. Answer "Yes" in Line 24a if the plan has automatic enrollment. If you answer "Yes," enter the default elective deferral as a percentage of a participant's compensation in the first year after a participant is automatically enrolled. In Line 24b, indicate whether the plan has automatic escalation, assuming a participant has made no active elections. If the plan has automatic escalation, indicate the maximum elective deferral as a percentage of a participant's compensation. In Line 24c enter the number of participants that remain in the plan's default investment account(s) and have not directed any assets into other plan investments.

Line 25. Catch-up Contributions. Enter the number of participants making catch-up contributions.

20XX Instructions for Schedule SB (Form 5500)—Single-Employer Defined Benefit Plan Actuarial Information

General Instructions

Note. Final regulations under certain portions of Code section 430 (sections 430(d), 430(f), 430(g), 430(h), and 430(i)) and Code section 436 (and the corresponding provisions of ERISA (sections 206(g) and 303)) were published in the **Federal Register** July 31, 2008, and October 15, 2009, and apply for plan years beginning on or after January 1, 2010. Proposed regulations providing additional rules under Code sections 430(a), 430(j) and 4971 (and the corresponding provisions of ERISA (section 303)) were published in the **Federal Register** on April 15, 2008. The final regulations that relate to those proposed regulations have a later effective date than the final regulations published October 15, 2009. With respect to provisions for which the final regulations do not apply to a plan for the plan year, plan sponsors must follow a reasonable interpretation of the statute, taking into account the provisions of the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA"), Public Law 110–458, the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 ("PRA 2010"), Public Law 111–192, Moving Ahead for Progress in the 21st Century Act ("MAP–21"), Public Law 112–141, and any other amendments to the funding rules that are enacted. For this purpose, plan sponsors may rely on the provisions of the proposed regulations or the final regulations, as applicable, but must take into account the provisions of WRERA, PRA 2010, MAP–21, any other amendments to the funding rules that are enacted, and any applicable published guidance.

Who Must File

As the first step, the plan administrator of any single-employer defined benefit pension plan (including a multiple-employer defined benefit pension plan) that is subject to the minimum funding standards (see Code section 412 and Part 3 of Title I of ERISA) **must** obtain a completed Schedule SB (including attachments) that is prepared and signed by the plan's enrolled actuary as discussed below in the *Statement by Enrolled Actuary* section. The plan administrator must retain with the plan records the Schedule SB that is prepared and signed by the plan's actuary. The electronic-signature by the plan actuary is acceptable. The plan actuary can access the EFAST2 Web site at *www.efast.dol.gov* to register for electronic credentials to sign.

The plan administrator must ensure that the information from the actuary's Schedule SB is entered electronically into the annual return/report being submitted. When entering the information, whether using EFAST2-approved software or EFAST2's web-based filing system, all the fields required for the type of plan must be completed (see instructions for fields that need to be completed).

Further, if a plan actuary chooses not to sign electronically, then the actuary must manually sign the Schedule SB and an electronic reproduction must be filed with the Form 5500. The plan administrator of a single-employer defined benefit pension plan must attach to the Form 5500 or Form 5500–SF an electronic reproduction of the Schedule SB (including attachments) prepared and signed by the plan's enrolled actuary. This electronic reproduction must be labeled ***"SB Actuary Signature"*** and must be included as a Portable Document Format (PDF) attachment or any alternative electronic attachment allowable under EFAST2.

Note. The Schedule SB (Form 5500) does not have to be filed with the Form 5500–EZ, but it must be retained (in accordance with the Instructions for Form 5500–EZ under the *What To File* section). Similarly, the Schedule SB does not have to be filed with the Form 5500–SF for a one-participant plan (as defined in the Form 5500–EZ instructions) that is eligible for the Form 5500–SF and elects to file such form instead of the Form 5500–EZ. However, the Schedule SB must be retained in accordance with the Instructions for Form 5500–SF under the section headed *Specific Instructions Only for "One-Participant Plans."* The enrolled actuary must complete and sign the Schedule SB and forward it to the person responsible for filing the Form 5500–EZ or Form 5500–SF, even if the Schedule SB is not filed.

Check the Schedule SB box on the Form 5500 (Part II, Line 10a(3)) if a Schedule SB is attached to Form 5500. Check "Yes" on Line 11 in Part VI of the Form 5500–SF if a Schedule SB is required to be prepared for the plan, even if Schedule SB is not required to be attached to Form 5500–SF (see instructions in the Note above, pertaining to "one-participant plans").

Note. This schedule is not filed for a multiemployer plan nor for a money purchase defined contribution pension plan (including a target benefit plan) for which a waiver of the minimum funding requirements is currently being amortized. Information for these plans must be filed using Schedule MB (Form 5500).

Specific Instructions

Lines A through F. Identifying Information. Lines A–F must be completed for all plans. Lines A through D should include the same information as reported in corresponding lines in Part II of the Form 5500, Form 5500–SF, or Form 5500–EZ filed for the plan. You may abbreviate the plan name (if necessary) to fit in the space provided.

Do not use a social security number in line D instead of an EIN. The Schedule SB and its attachments are open to public inspection if filed with a Form 5500 or Form 5500–SF, and the contents are public information and are generally subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on the Schedule SB or any of its attachments may result in the rejection of the filing.

You can apply for an EIN from the IRS online, by telephone, by fax, or by mail depending on how soon you need to use the EIN. For more information, *see Section 3: Electronic Filing Requirement under General Instructions to Form 5500.* The EBSA does not issue EINs.

Line E. Type of Plan. Check the applicable box to indicate the type of plan. A single-employer plan for this reporting purpose is an employee benefit plan maintained by one employer or one employee organization. A multiple-employer plan is a plan that is maintained by more than one employer, but is not a multiemployer plan. (See the Instructions for Form 5500, box A for additional information on the definition of a multiemployer plan.)

1. Check "Single" if the Form 5500, Form 5500–SF, or Form 5500–EZ is filed for a single-employer plan (including a plan maintained by more than one member of the same controlled group).
2. Check "Multiple-A" if the Form 5500 or Form 5500–SF is being filed for a multiple-employer plan and the plan is subject to the rules of Code section 413(c)(4)(A) (*i.e.,* it is funded as if each employer were maintaining a separate plan). This includes plans established before January 1, 1989, for which an election was made to fund in accordance with Code section 413(c)(4)(A).
3. Check "Multiple-B" if the Form 5500 or Form 5500–SF is being filed for a multiple-employer plan and the plan is subject to the rules of Code section 413(c)(4)(B) (*i.e.,* it is funded as if all participants were employed by a single employer).

If "Multiple-A" is checked, with the exception of Part III, the data entered on Schedule SB should be the sum of the individual amounts computed for each employer. The percentages reported in Part III should be calculated based on the reported aggregate numbers rather than by summing up the individual percentages. The Schedule SB data for each employer's portion of the plan must be submitted as an attachment. This is accomplished by completing and attaching a Schedule SB for each employer or by attaching a document containing that information (*e.g.,* a table showing a row for each Schedule SB data item and a column for each employer). Label the attachment ***"Schedule SB—Information for Each Individual Employer."***

Line F. Prior Year Plan Size. Check the applicable box based on the highest number of participants (both active and inactive) on any day of the preceding plan year, taking into account participants in all defined benefit pension plans maintained by the same employer (or any member of such employer's controlled group) who are or were also employees of that employer or member. For this purpose, participants whose only defined benefit pension plan is a multiemployer plan (as defined in Code section 414(f)) are not counted, and participants who are covered in more than one of the defined benefit pension plans described above are counted only once. Inactive participants include vested terminated and retired employees as well as beneficiaries of deceased participants. If this is the first plan year that a plan described in this paragraph exists, complete this line based on the highest number of participants that the plan was reasonably expected to have on any day during the first plan year.

General Instructions, Parts I through IX, Statement by Enrolled Actuary, and Attachments

Except as noted below, Parts I through VIII must be completed for all single and multiple-employer defined benefit pension plans, regardless of size or type. See instructions for Line 31 for additional information to be provided for certain plans with special circumstances. Part IX is completed only for those plans for which an alternative amortization schedule was elected under section 430(c)(2)(D) of the Code or section 303(c)(2)(D) of ERISA, as amended by PRA 2010, and for those plans for which funding relief was elected under section 107 of Pension Protection Act of 2006, as added by PRA 2010.

The Pension Protection Act of 2006, as amended (PPA), provides delayed effective dates for the funding rules under Code section 430 for plans meeting certain criteria (certain multiple-employer plans maintained by eligible cooperative plans, and eligible charity plans, as described in PPA section 104). Eligible plans to which these delayed effective dates apply do not need to complete the entire Schedule SB, but will have to file information relating to pre-PPA calculations in an attachment using the 2007 Schedule B form. See the instructions for Line 31 for more information about which lines of Schedule SB need to be completed and what additional attachments are required.

PPA provides funding relief for certain defined benefit pension plans (other than multiemployer plans) maintained by a commercial passenger airline or by an employer whose principal business is providing catering services to a commercial passenger airline, based on an alternative 17-year funding schedule. Plans using this funding relief do not need to complete the entire Schedule SB, but are required to provide supplemental information as an attachment to Schedule SB. Alternatively, these plans can elect to apply the funding rules generally applicable to single-employer defined benefit pension plans, but amortize the funding shortfall over 10 years instead of the standard 7-year period and use a special interest rate to determine the funding target. Plans using this 10-year funding option must complete the entire Schedule SB and provide additional information. See the instructions for Line 31 for more information about which lines of Schedule SB need to be completed and what additional attachments are required.

MAP–21 amended Code section 430(h)(2)(C) and ERISA section 302(h)(2)(C) to provide that, for certain purposes, each of the three segment rates described in those sections is adjusted as necessary to fall within a specified range that is determined based on an average of the corresponding segment rates for the 25-year period ending on September 30 of the calendar year preceding the first day of the plan year. Accordingly, if the funding target and target normal cost for a plan are determined using these segment rates, the segment rates used to determine the minimum required contribution and the adjusted funding target attainment percentage (''AFTAP'') used to apply funding-based benefit restrictions under Code section 436 and ERISA section 206(g) may be different from those used for other purposes (such as the segment rates used to determine the deductible limit under Code section 404(o)). In such cases, report all information on Schedule SB reflecting the assumptions used to determine the minimum required contribution and the AFTAP used to apply funding-based benefit restrictions.

Note. (1) For a plan funded with insurance (other than a plan described in Code section 412(e)(3) or ERISA section 301(b)), refer to section 1.430(d)–1(c)(2) of the Income Tax Regulations regarding whether to include the liabilities for benefits covered under insurance contracts held by the plan and whether to include the value of the insurance contracts in plan assets. (2) For terminating plans, Rev. Rul. 79–237, 1979–2 C.B. 190, provides that minimum funding standards apply until the end of the plan year that includes the termination date. Accordingly, the Schedule SB is not required to be filed for any later plan year. However, if a termination fails to occur—whether because assets remain in the plan's related trust (see Rev. Rul. 89–87, 1989–2 C.B. 81) or for any other reason (*e.g.*, the PBGC issues a notice of noncompliance pursuant to 29 CFR 4041.31 for a standard termination)—there is no termination date, and therefore, minimum funding standards continue to apply and a Schedule SB continues to be required.

Statement by Enrolled Actuary

An enrolled actuary must sign Schedule SB with either an electronic signature or a handwritten signature. The electronic signature of the enrolled actuary may be qualified to state that it is subject to attached qualifications. See Treasury Regulations section 301.6059–1(d) for permitted qualifications. If the actuary has not fully reflected any final or temporary regulation, revenue ruling, or notice promulgated under the statute in completing the Schedule SB, check the box on the last line of page 1. If this box is checked, indicate on this line whether any unpaid required contribution or a contribution that is not wholly deductible would result if the actuary had fully reflected such regulation, revenue ruling, or notice. In addition, the actuary may offer any other comments related to the information contained in Schedule SB. Except as otherwise provided in these instructions, a stamped or machine produced signature is not acceptable.

The actuary must provide the completed and signed Schedule SB to the plan administrator to be retained with the plan records and included (in accordance with these instructions) with the Form 5500 or Form 5500–SF that is submitted under EFAST2. The plan's actuary is permitted to electronically sign the Schedule SB, or sign on page one using the actuary's signature or by inserting the actuary's typed name in the signature line followed by the actuary's handwritten initials. The actuary's most recent enrollment number must be entered on the Schedule SB that is prepared and signed by the plan's actuary.

Attachments

All attachments to the Schedule SB must be properly identified as attachments to the Schedule SB, and must include the name of the plan, plan sponsor's EIN, plan number, and line number to which the schedule relates.

Do not include attachments that contain a visible social security number. Except for certain one-participant plans, the Schedule SB and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a visible social security number or any portion thereof on an attachment may result in the rejection of the filing.

Part I—Basic Information

Note. All entries in Part I must be reported as of the valuation date, reflecting the assumptions and amounts generally used to determine the minimum required contribution. In the case of a plan described in section 104 of PPA, the information should be reported as if PPA provisions were effective for all plan years beginning after December 31, 2007.

Line 1. Valuation Date. The valuation date for a plan year must be the first day of the plan year unless the plan meets the small-plan exception of Code section 430(g)(2)(B) and ERISA section 303(g)(2)(B). For plans that qualify for the exception, the valuation date may be any date in the plan year, including the first or last day of the plan year. A plan qualifies for this small-plan exception if there were 100 or fewer participants on each day of the prior plan year. For the definition of participant as it applies in this case, see the instructions for Line F.

Line 2a. Market Value of Assets. Enter the fair market value of assets as of the valuation date. Include contributions designated for any previous plan year that are made after the valuation date (but within the 8½-month period after the end of the immediately preceding plan year), adjusted for interest for the period between the date of payment and the valuation date as provided in the applicable regulations.

Contributions made for the current plan year must be excluded from the amount reported in Line 2a. If these contributions were made prior to the valuation date (which can only occur for small plans with a valuation date other than the first day of the plan year), the asset value must be adjusted to exclude not only the contribution amounts, but interest on the contributions from the date of payment to the valuation date, using the current-year effective interest rate.

Do not adjust for items such as the funding standard carryover balance, prefunding balance, any unpaid minimum required contributions, or the present value of remaining shortfall or waiver amortization installments. Rollover amounts or other assets held in individual accounts that are not available to provide defined benefits under the plan should not be included on Line 2a regardless of whether they are reported on the Schedule H (Form 5500) (line 1l, column (a)) or Form 5500–SF (Line 7c, column (a)). Additionally, asset and liability amounts must be determined in a consistent manner. Therefore, if the value of any insurance contracts has been excluded from the amount reported in Line 2a, liabilities satisfied by such contracts should also be excluded from the funding target values reported in Lines 3 and 4.

Line 2b. Actuarial Value of Assets. Do not adjust the actuarial value of assets for items such as the funding standard carryover balance, the prefunding balance, any unpaid minimum required contributions, or the present value of any remaining shortfall or waiver amortization installments. Treat contributions designated for a current or prior plan year, rollover amounts, insurance contracts, and other items in the same manner as for Line 2a. If an averaging method is used to value plan assets (as permitted under Code section 430(g)(3)(B) and ERISA section 303(g)(3)(B), as amended by WRERA), enter the value as of the valuation date taking into account the requirement that such value must be within 90% to 110% of the fair market value of assets.

Note. Under Code section 430(g)(3)(B), the use of averaging methods in determining the value of plan assets is permitted only in accordance with methods prescribed in Treasury regulations. Accordingly, taxpayers cannot use asset valuation methods other than fair market value (as described in Code section 430(g)(3)(A)), except as provided under Notice 2009–22, 2009–14 I.R.B. 741, or Treasury regulations.

Line 3. Funding Target/Participant Count Breakdown. All amounts should be reported as of the valuation date.

- Column (1)—Enter the number of participants, including beneficiaries of deceased participants, who are or who will be entitled to benefits under the plan.
- Column (2)—Enter the portion of the funding target attributable to vested benefits. For this purpose benefits considered to be vested for PBGC premium purposes must be included.
- Column (3)—Enter the funding target attributable to all benefits, both vested and nonvested.

For columns (2) and (3), the funding target must be calculated using the methods and assumptions provided in Code sections 430(h) and (i), ERISA sections 303(h) and (i), and other related guidance.

Unless the plan sponsor has received approval to use substitute mortality tables in accordance with Code section 430(h)(3)(C) and ERISA section 303(h)(3)(C), the funding target must be computed using the mortality tables for non-disabled lives, as described in section 1.430(h)(3)–1 of the regulations. If substitute mortality tables have been approved (or deemed to have been approved) by the IRS, such tables must be used instead of the mortality tables described in the previous sentence, subject to the rules of

Code section 430(h)(3) and ERISA section 303(h)(3). The funding target may be computed taking into account the mortality tables for disabled lives published in Rev. Rul. 96–7, 1996–1 C.B. 59, and as provided in Notice 2008–29, 2008–12 I.R.B. 637.

Special rules for plans that are in at-risk status. If a plan is in at-risk status, report the amount reflecting the additional assumptions required in Code section 430(i)(1)(B) and ERISA section 303(i)(1)(B).

If the plan has been in at-risk status for any two or more of the preceding four plan years, also include the loading factor required in Code section 430(i)(1)(C) and ERISA section 303(i)(1)(C). If the plan is in at-risk status and has been in at-risk status for fewer than five consecutive years, report the funding target amounts after reflecting the transition rule provided in Code section 430(i)(5) and ERISA section 303(i)(5). For example, the funding target for a plan that is in at-risk status for 20**XX** and was in at-risk status for the 20**XX**–3, 20**XX–2** and 20**XX–1** plan years (but not the 20**XX–4** plan year) will reflect 80% of the funding target using the special at-risk assumptions and 20% of the funding target determined without regard to the at-risk assumptions.

Determining whether a plan is in at-risk status. Refer to Code section 430(i)(4) and ERISA section 303(i)(4) to determine whether the plan is in at-risk status. Generally, a plan is in at-risk status for a plan year if it had more than 500 participants on any day during the preceding plan year (see instructions for Line F for the definition of participants) and the plan's funding target attainment percentage (“FTAP”) for the preceding plan year fell below specified thresholds.

A plan with over 500 participants is in at-risk status for 20**XX** if both:

1. the FTAP for 20**XX–1** (Line 17 of the for 20**XX–1** Schedule SB) is less than 80%, and
2. the at-risk funding target attainment percentage for 20**XX–1** is less than 70%.

In general, the at-risk funding target attainment percentage is determined in the same manner as the FTAP (as described in the instructions for Line 17), except that the funding target is determined using the additional assumptions for plans in at-risk status. For this purpose, the at-risk funding target is determined by disregarding the transition rule of Code section 430(i)(5) and ERISA section 303(i)(5) for plans that have been in at-risk status for fewer than five consecutive years, and disregarding the loading factor in Code section 430(i)(1)(C) and ERISA section 303(i)(1)(C). For plans that were in at-risk status for the 20**XX–1** plan year, the at-risk funding target used to determine whether the plan is in at-risk status for the 20**XX** plan year is the amount reported in Line 4b of the 20**XX–1** Schedule SB.

Refer to the regulations under section 430(i) of the Code for rules pertaining to new plans and other special situations.

Line 4. Additional Information for Plans in At-Risk Status. If the plan is in at-risk status as provided under Code section 430(i)(4) and ERISA section 303(i)(4), check the box, complete Lines 4a through 4d, and include as an attachment the information described below. Do not complete Line 4 if the plan is not in at-risk status for the current plan year for purposes of determining the minimum required contribution.

- Column 1—Enter the amount of the funding target determined as if the plan were not in at-risk status.
- Column 2—Report the funding target disregarding the transition rule of Code section 430(i)(5) and ERISA section 303(i)(5), and disregarding the loading factor in Code section 430(i)(1)(C) and ERISA section 303(i)(1)(C).

If the plan is in at-risk status for the current plan year, include a description of the at-risk assumptions for the assumed form of payment (*e.g.*, specify the optional form resulting in the highest present value) in the attachment for Part V regarding the actuarial assumptions. Label this information in the attachment ***“Schedule SB, Line 4—Additional Information for Plans in At-Risk Status.”***

Line 5. Effective Interest Rate. Enter the single rate of interest which, if used instead of the interest rate(s) reported in Line 24 to determine the present value of the benefits that are taken into account in determining the plan's funding target for a plan year, would result in an amount equal to the plan's funding target determined for the plan year, without regard to calculations for plans in at-risk status. (This is the funding target reported in Line 3d, column (3) for plans not in at-risk status, or in Line 4a for plans in at-risk status.) However, if the funding target for the plan year is zero, the effective interest rate is determined as the single rate that would result in an amount equal to the plan's target normal cost determined for the plan year, without regard to calculations for plans in at-risk status. See the provisions of Code section 430(h)(2)(A), ERISA section 303(h)(2)(A), and the applicable regulations. Enter rate to the nearest .01% (*e.g.*, 5.26%).

Line 6a. Target Normal Cost. (Without Plan-Related Expenses). Report the present value of all benefits which have been accrued or have been earned (or that are expected to accrue or to be earned) under the plan during the plan year . Include any increase in benefits during the plan year that is a result of any actual or projected increase in compensation during the current plan year, even if that increase in benefits is with respect to benefits attributable to services performed in a preceding plan year. This amount must be calculated as of the valuation date and must generally be based on the same assumptions used to determine the funding target reported in Line 3c, column (3), reflecting the special assumptions and the loading factor for at-risk plans, if applicable. If the plan is in at-risk status for the current plan year and has been in at-risk status for fewer than five consecutive years, report the target normal cost after reflecting the transition rule provided in Code section 430(i)(5) and ERISA section 303(i)(5). Do not increase the amount by plan expenses and do not reduce the amount by mandatory employee contributions.

Line 6b. Plan-Related Expenses. Report any plan-related expenses expected to be paid from plan assets during the plan year.

Line 6c. Total Target Normal Cost. Report the total target normal cost (sum of Lines 6a and 6b minus mandatory employee contributions expected to be made during the plan year, but not less than zero).

Special rule for airlines using 10-year amortization period under section 402(a)(2) of PPA. Section 402(a)(2) of PPA (as amended by section 6615 of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, Pub. L. 110–28 (121 Stat.112)) states that for plans electing the 10-year amortization period, the funding target during that period is determined using an interest rate of 8.25% rather than the interest rates or segment rates calculated on the basis of the corporate bond yield curve. However, this special 8.25% interest rate does not apply for other purposes, including the calculation of target normal cost or the amortization of the funding shortfall. Report the target normal cost using the interest rates or segment rates otherwise applicable under 430(h)(2) and ERISA section 303(h)(2).

Part II—Beginning of Year Carryover Prefunding Balances

Line 7. Balance at Beginning of Prior Plan Year After Applicable Adjustments. In general, report the amount in the corresponding columns of Line 13 of the prior-year Schedule SB. See instructions for Line 14 if the balance from the prior year has been adjusted so that it does not match the corresponding amount in Line 13 of the prior-year Schedule SB. Note that elections to add excess contributions or reduce balances have specific deadlines, and generally cannot be changed once they have been made.

If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave both columns blank.

Line 8. Portion Elected for Use To Offset Prior Year's Funding Requirement. Report the amount for each column from the corresponding column of Line 39 of the prior-year Schedule SB. If the valuation date is not the first day of the plan year, report the amounts from Line 39 of the prior-year Schedule SB, discounted to the beginning of the prior plan year using the effective interest rate for the prior plan year.

Reflect the full amount reported in Line 39 of the prior-year Schedule SB even if the amount is larger than the minimum required contribution reported for that year on Line 38 of the prior-year Schedule SB. This can occur under the special rule for elections to use balances in excess of the minimum required contribution under section 1.430(f)–1(f)(1)(ii) of the regulations, if no timely election is made to revoke the excess amount.

If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave both columns blank.

Special rule for late election to apply balances to quarterly installments. If an election was made to use the funding standard carryover balance or the prefunding balance to offset the amount of a required quarterly installment, but the election was made after the due date of the installment, the amount reported on Line 8 may not be the same as the amount reported on Line 39 for the prior year. Refer to the regulations under section 430 of the Code for additional information. See instructions for Line 15 if a late election to apply the balances to quarterly installments was made.

Line 9. Amount Remaining. Enter the amount equal to Line 7 minus Line 8 in each column. If this is the first year that the plan is subject to the minimum funding requirements of Code section 430 or ERISA section 303, enter the amount of any credit balance at the end of the prior year (the "pre-effective plan year") on Line 9, column (a) and leave Line 9, column (b) blank. The amount entered on Line 9, column (a) is generally the amount reported for the pre-effective plan year on Line 9o of the 2007 version of the Schedule B form that was submitted as an attachment to the Schedule SB for that pre-effective plan year. See instructions for Line 16 if there has been any adjustment to this amount so that it does not match the amount so reported for the pre-effective plan year.

Line 10. Interest on Line 9. Enter the actual rate of return on plan assets during the preceding plan year in the space provided. Enter the rate to the nearest .01% (*e.g.,* 6.53%). If entering a negative number, enter a minus sign ("–") to the left of the number. In each column, enter the product of this interest rate and the amount reported in the corresponding column of Line 9. If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave both columns blank.

Line 11. Prior Year's Excess Contributions to be Added to Prefunding Balance.

Line 11a. Enter the amount reported in Line 42a on the Schedule SB for the prior plan year.

Line 11b(1). Enter the effective interest rate for the prior plan year, as reported on Line 5 of the Schedule SB for the prior plan year, in the space provided. Enter the rate to the nearest .01% (*e.g.,* 6.35%).

In column (b), enter the product of the prior year's effective interest rate in Line 11b(1) and the excess (if any) of the amount reported on Line 42a for the prior year over the amount reported on Line 42b for the prior year.

However, if the valuation date for the prior plan year was not the first day of the plan year (permitted for small plans only), enter the result of the following calculation:

Step 1: Determine the excess (if any) of the amount reported on Line 42a for the prior year over the amount reported on Line 42b for the prior year,

Step 2: Adjust the result in Step 1 to the first day of the prior year using the effective interest rate for the prior year,

Step 3: Multiply the result in Step 2 by the prior year's effective interest rate in Line 11(b)(1), and

Step 4: Reduce the result in Step 3 by interest on the result in Step 2 of this paragraph for the period between the first day of the prior plan year and the prior-year valuation date using the effective interest rate for the prior year.

The amount reported in Line 11(b)(1) is zero if the prior year's valuation date was the last day of the prior plan year.

Line 11(b)(2). In column (b), enter the product of the prior year's actual rate of return (from Line 10) and the present value of excess contributions reported on Line 42b for the prior year. However, if the valuation date for the prior plan year was not the first day of the plan year (permitted for small plans only), enter the result of the following calculation:

Step 1: Adjust the prior-year amount reported in Line 42b to the first day of the prior year, using the effective interest rate for the prior year,

Step 2: Multiply the result in Step 1 by the prior year's actual rate of return (from Line 10), and

Step 3: Reduce the result in Step 2 by interest on the result in Step 1 for the period between the first day of the prior plan year and the prior-year valuation date using the effective interest rate for the prior year.

Line 11c. Enter the sum of Lines 11a, 11b(1) and 11(b)(2).

Line 11d. Enter the amount of the excess contributions for the prior year (with interest) that the plan sponsor elected to use to increase the prefunding balance. This amount cannot be greater than the amount reported on Line 11c. If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave Lines 11a–d blank.

Line 12. Other Reductions in Balances Due to Elections or Deemed Elections. In each column, enter the amount by which the employer elects to reduce (or is deemed to elect to reduce, per Code section 436(f)(3) and ERISA section 206(g)(5)(C)) the funding standard carryover balance or prefunding balance, as applicable, under Code section 430(f) and ERISA section 303(f), other than any amount reported in Line 8 that is treated as a reduction in these balances under the special rule in section 1.430(f)–1(f)(3)(ii) (relating to amounts elected for use to offset the minimum required contribution that exceed the minimum required contribution for the plan for the plan year, and which are not revoked by the plan sponsor). This amount cannot be greater than the sum of the amounts reported in the corresponding column of Lines 9, 10 and, if applicable, 11d. Note that an election (or deemed election) cannot be made to reduce the prefunding balance in column (b) until the funding standard carryover balance in column (a) has been reduced to zero.

If the valuation date is not the first day of the plan year, adjust the amounts reported in Line 12 to the first day of the plan year, using the effective interest rate for the current plan year. If the plan did not exist in the prior year and is not a successor plan, leave both columns blank. If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave column (b) blank.

Line 13. Balance at Beginning of Current Year.

Column (a)—Enter the sum of the amounts reported on Lines 9 and 10 of column (a), minus the amount reported on Line 12 of column (a).

Column (b)—Enter the sum of the amounts reported on Lines 9, 10 and 11d of column (b), minus the amount reported on Line 12 of column (b).

If this is the first year for which the plan is subject to the minimum funding rules of Code section 430 or ERISA section 303, leave column (b) blank.

Line 14. Discrepancy in Prior Year Funding Standard Carryover Balance or Prefunding Balance. If the funding standard carryover balance or prefunding balance from the prior year reported on Line 7 has been adjusted so that it does not match the corresponding amount in Line 13 of the prior-year Schedule SB, check the box in Line 14 and provide an explanation. Note that elections to add excess contributions or reduce balances have specific deadlines, and generally cannot be changed once they have been made.

Line 15. Late Election to Apply the Funding Standard Carryover Balance or Prefunding Balance to Quarterly Installments. If an election was made to use the funding standard carryover balance or the prefunding balance to offset the amount of a required quarterly installment, and the election was made after the due date of the installment, so that the amount reported on Line 8 is not the same as the amount reported on Line 39 for the prior year, check the box on Line 15 and provide an explanation.

Line 16. Credit Balance Discrepancy. If there has been any adjustment to the credit balance amount reported in Line 9 so that it does not match the amount so reported for the pre-effective plan year, check the box on Line 16 and provide an explanation.

Part III—Funding Percentages

Enter all percentages in this section by truncating at .01% (*e.g.,* report 82.649% as 82.64%).

Line 17. Funding Target Attainment Percentage. Enter the funding target attainment percentage (FTAP) determined in accordance with Code section 430(d)(2) and ERISA section 303(d)(2). The FTAP is the ratio (expressed as a percentage) which the actuarial value of plan assets (reduced by the funding standard carryover balance and prefunding balance) bears to the funding target determined without regard to the additional rules for plans in at-risk status. This percentage is determined by subtracting the sum of the amounts reported in Line 13 from Line 2b and dividing the result by the funding target. The funding target used for this purpose is the number reported in Line 3d, column (3) for plans that are not in at-risk status and Line 4a for plans that are in at-risk status. If the plan's valuation date is not the first day of the plan year, subtract the sum of the amounts reported in Line 13, adjusted for interest between the beginning of the plan year and the valuation date using the effective interest rate for the current plan year, from the amount reported in Line 2b; and divide by the funding target.

Line 18. Adjusted Funding Target Attainment Percentage. Enter the adjusted funding target attainment percentage (AFTAP) determined in accordance with Code section 436(j)(2) and ERISA section 206(g)(9)(B). The AFTAP is calculated in the same manner as the FTAP reported in Line 17, except that both the assets and the funding target used to calculate the AFTAP are increased by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in Code section 414(q)) which were made by the plan during the preceding two plan years.

See Code section 436(j)(3) and ERISA section 206(g)(9)(C) for rules regarding circumstances in which the actuarial value of plan assets is not reduced by the funding standard carryover balance and prefunding balance for certain fully-funded plans when determining the AFTAP. Note that this special rule applies only to the calculation of the AFTAP and not to the FTAP reported in Line 17.

Report the final certified AFTAP for the plan year, even if it does not correspond to the valuation results reported on this Schedule SB (for instance, if any adjustments pertaining to the plan year were made subsequent to the valuation or the AFTAP). If no AFTAP was certified for the plan year, check the box and attach an explanation and (1) report 100%, if the plan's adjusted funding target for the plan year is zero, as described in section 1.436–1(j)(1)(iv) of the Treasury regulations, or (2) leave Line 18 blank if the plan's adjusted funding target for the plan year is not equal to zero. Label the attachment, ***"Line 18, Reconciliation of differences between valuation results and amounts used to calculate AFTAP."*** For plans with valuation dates other than the first day of the plan year, report the AFTAP that is the final certified AFTAP based on the valuation results for the current plan year at the time that the Schedule SB is filed (reflecting contributions for the current plan year and reflecting other adjustments as described in applicable guidance), even if that AFTAP is not used to apply the restrictions under Code section 436 and ERISA section 206(g) until the following plan year.

If the AFTAP reported on Line 18 does not correspond to the valuation results reported on this Schedule SB (for instance, if any adjustments pertaining to the plan year were made subsequent to the valuation), check the box and attach a schedule showing each AFTAP that was certified or recertified for the plan year, the date of the certification (or recertification), and a description and the amount of each adjustment to the funding target, actuarial value of assets, funding standard carryover balance and prefunding balance used to determine the corresponding AFTAP. Label the attachment, ***"Line 18, Reconciliation of differences between valuation results and amounts used to calculate AFTAP."*** It is not necessary to include any information pertaining to a range certification in this attachment.

Special rules for airlines using 10-year amortization period under section 402(a)(2) of PPA. Section 402(a)(2) of PPA (as amended) states that for plans electing the 10-year funding amortization period, the funding target during that period is determined using an interest rate of 8.25% rather than the interest rates or segment rates calculated on the basis of the corporate bond yield curve. Report the AFTAP for these plans based on the funding target determined using the special 8.25% interest rate.

Line 19. Prior Year's Funding Percentage for Purposes of Determining Whether Carryover/Prefunding Balances May Be Used To Offset Current Year's Funding Requirement. Under Code section 430(f)(3) and ERISA section 303(f)(3), the funding standard carryover balance and prefunding balance may not be applied toward minimum contribution requirements unless the ratio of plan assets for the preceding plan year to the funding target for the preceding plan year (as described in Code section 430(f)(3)(C) and ERISA section 303(f)(3)(C)) is 80% or more.

Enter the applicable percentage as described below, truncated at .01% (*e.g.,* report 81.239% as 81.23%). In general, the percentage is the ratio that the prior-year actuarial value of plan assets (reduced by the amount of any prefunding balance, but not the funding standard carryover balance) bears to the prior-year funding target determined without regard to the additional rules for plans in at-risk status. This percentage is determined as follows, with all amounts taken from the prior year's Schedule SB:

1. For plans that are not in at-risk status, subtract the amount reported on Line 13, column (b) (adjusted for interest as described below, if the valuation date is not the first day of the plan year) from the amount reported on Line 2b, and divide the result by the funding target reported on Line 3d, column (3).
2. For plans that are in at-risk status, subtract the amount reported on Line 13, column (b) (adjusted for interest as described below, if the valuation date is not the first day of the plan year) from the amount reported on Line 2b, and divide the result by the funding target reported on Line 4a.

If the valuation date for the prior plan year was not the first day of that plan year, the amount subtracted from the assets for the purpose of the above calculations is the amount reported on Line 13, column(b), adjusted for interest between the beginning of the prior plan year and the prior year's valuation date, using the effective interest rate for the prior plan year.

Line 20. Ratio of Current Value of Assets to Funding Target if Below 70%. This calculation is required under ERISA section 103(d)(11). If Line 2a divided by the funding target reported in Line 3d, column (3), is less than 70%, enter such percentage. Otherwise, leave this line blank.

Part IV—Contributions and Liquidity Shortfalls

Line 21. Contributions Made to the Plan. Show all employer and employee contributions either designated for this plan year or those allocated to unpaid minimum required contributions for a prior plan year. Do not adjust contributions to reflect interest in column (b). Show only employer contributions actually made to the plan within 8½ months after the end of the plan year for which this Schedule SB is filed (or actually made before the Schedule SB is signed, if earlier).

Certain employer contributions must be made in quarterly installments. See Code section 430(j) and ERISA section 303(j). Contributions made to meet the liquidity requirement of Code section 430(j)(4) and ERISA section 303(j)(4) should be reported. Include contributions made to avoid benefit restrictions under Code section 436 and ERISA section 206(g).

Add the amounts in both columns 21(b) and 21(h) separately and enter each result in the corresponding column on the total line. All contributions except those made to avoid benefit restrictions under Code section 436 and ERISA section 206(g) must be credited toward minimum funding requirements for a particular plan year.

Employer contributions reported in Line 21 that were made on a date other than the valuation date must be adjusted to reflect interest for the time period between the valuation date for the plan year to which the contribution is allocated and the date the contribution was made. In general, adjust each contribution using the effective interest rate reported on Line 5 for the plan year to which the contribution is allocated.

Show the dates and amounts of individual contributions, the year to which the contributions (or the portion of individual contributions) are applied, the interest rate(s) used to adjust the contributions (*i.e.,* the effective interest rate for timely contributions and the applicable effective interest rate plus 5% for late quarterly installments) and the periods during which each rate applies, and the interest-adjusted contribution. In Line 21(g), allocate the interest-adjusted employer contributions to Lines 22a, 22b, and 22c to report the purpose for which they were made (as described below).

Special note for small plans with valuation dates after the beginning of the plan year. If the valuation date is after the beginning of the plan year and contributions for the current year were made during the plan year but before the valuation date, such contributions are increased with interest to the valuation date using the effective interest rate for the current plan year. These contributions and the interest calculated as described in the preceding sentence are excluded from the value of assets reported in Lines 2a and 2b.

Interest adjustment for contributions representing late required quarterly installments—installments due after the valuation date. If the full amount of a required installment due after the valuation date for the current plan year is not paid by the due date for that installment, increase the effective interest rate used to discount the contribution by 5 percentage points for the period between the due date for the required installment and the date on which the payment is made. If all or a portion of the late required quarterly installment is due to a liquidity shortfall, the increased interest rate is used for a period of time corresponding to the period between the due date for the installment and the end of that quarter, regardless of when the contribution is actually paid.

Interest adjustment for contributions representing late required quarterly installments—small plans with valuation dates after the beginning of the plan year—installments due prior to the valuation date. See the regulations under section 430 for rules regarding interest adjustments for late quarterly contributions for quarterly contributions due before the valuation date.

Line 22. Discounted Employer Contributions.

Line 22a. Contributions Allocated Toward Unpaid Minimum Required Contributions from Prior Plan Years. Code section 4971(c)(4)(B) provides that any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution for the current plan year. Report any contributions from Line 21 that are allocated toward unpaid minimum required contributions from prior plan years, discounted for interest from the date the contribution was made to the valuation date for the plan year for which the contribution was originally required as described above. Increase the effective interest rate for the applicable plan year by 5 percentage points for any portion of the unpaid minimum required contribution that represents a late quarterly installment, for the period between the due date for the installment and the date of payment. Reflect the increased interest rate for any portion of the unpaid minimum required contribution that represents a late liquidity shortfall installment, for the period corresponding to the time between the date the installment was due and the end of the quarter during which it was due. The amount reported in Line 22a cannot be larger than the amount reported in Line 32.

For the purpose of allocating contribution amounts to unpaid minimum required contributions, any unpaid minimum required contribution attributable to an accumulated funding deficiency at the end of the last plan year before Code section 430 or ERISA section 303 applied to the plan (the "pre-effective plan year") is treated as a single contribution due on the last day of the pre-effective plan year (without separately identifying any portion of the accumulated funding deficiency attributable to late quarterly installments or late liquidity shortfall installments), and the associated effective interest rate is deemed to be the valuation interest rate for the pre-effective plan year.

Line 22b. Contributions Made To Avoid Benefit Restrictions. Include in this category current year contributions made to avoid or terminate benefit restrictions under Code section 436 and ERISA section 206(g). Adjust each contribution for interest from the date the contribution was made to the valuation date as described above.

Line 22c. Contributions Allocated Toward Minimum Required Contribution for Current Year. Include in this category contributions (including any contributions made in excess of the minimum required contribution) that are not included in Line 22a or 22b. Adjust each contribution for interest from the date the contribution was made to the valuation date as described above.

Line 23. Quarterly Contributions and Liquidity Shortfalls.

Line 23a. Did the Plan Have a Funding Shortfall for the Prior Plan Year? In accordance with Code section 430(j)(3) and ERISA section 303(j)(3), only plans that have a funding shortfall for the preceding plan year are subject to an accelerated quarterly contribution schedule. For this purpose, a plan is considered to have a funding shortfall for the prior year if the funding target reported on Line 3d, column (3) is greater than the actuarial value of assets reported on Line 2b, reduced by the sum of the funding standard carryover balance and prefunding balance reported on Line 13, columns (a) and (b), with all figures taken from the prior year's Schedule SB.

If the valuation date for the prior plan year was not the first day of that plan year, the amount subtracted from the actuarial value of assets for the above calculation is the sum of the amounts reported on Line 13, columns (a) and (b) of the prior-year Schedule SB, but adjusted for interest between the beginning of the prior plan year and the prior year's valuation date using the effective interest rate for the plan for the prior plan year.

However, see Code section 430(f)(4)(B)(ii) and ERISA section 303(f)(4)(B)(ii) for special rules in the case of a binding agreement with the PBGC providing that all or a portion of the funding standard carryover balance and/or prefunding balance is not available to offset the minimum required contribution for the prior plan year.

Please note that a plan may be considered to have a funding shortfall for this purpose even if it is exempt from establishing a shortfall amortization base under the provisions of Code section 430(c)(5) and ERISA section 303(c)(5).

Line 23b. If Line 23a is "No" (*i.e.,* if the plan did not have a funding shortfall in the prior plan year), the plan is not subject to the quarterly contribution rules, and this line should not be completed. If Line 23a is "Yes," check the "Yes" box on Line 23b if required installments for the current plan year were made in a timely manner; otherwise, check "No."

Line 23c. If Line 23a is "No," or the plan had 100 or fewer participants on every day of the preceding plan year (as defined for line F), the plan is not subject to the liquidity requirement of Code section 430(j)(4) and ERISA section 303(j)(4) and this line should not be completed. Check the box and attach a certification by the enrolled actuary if the special rule for nonrecurring circumstances is used, and label the certification ***"Schedule SB, Line 23c—Liquidity Requirement Certification."*** See Code section 430(j)(4)(E)(ii)(II) and ERISA section 303(j)(4)(E)(ii)(II).

If the plan is subject to the liquidity requirement and has a liquidity shortfall for any quarter of the plan year (see Code section 430(j)(4)(E) and ERISA section 303(j)(4)(E)), enter the amount of the liquidity shortfall for each such quarter. If the plan was subject to the liquidity requirement but did not have a liquidity shortfall, enter zero. File IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the 10% excise tax(es) if there is a failure to pay any liquidity shortfall by the required due date, unless a waiver of the 10% tax has been granted under Code section 4971(f)(4).

Part V—Assumptions Used To Determine Funding Target and Target Normal Cost

Attach a statement of actuarial assumptions and funding methods used to calculate the Schedule SB entries and label the statement ***"Schedule SB, Part V—Statement of Actuarial Assumptions/Methods."*** The statement must describe all non-prescribed actuarial assumptions (*e.g.,* retirement, withdrawal rates) used to determine the funding target and target normal cost, including the assumption as to the frequency with which participants are assumed to elect each optional form of benefit (including lump sum distributions), whether mortality tables are applied on a static or generational basis, whether combined mortality tables are used instead of separate annuitant and nonannuitant mortality tables (for plans with 500 or fewer participants as of the valuation date), and (for target normal cost) expected plan-related expenses and increases in compensation. For applicable defined benefit pension plans under Code section 411(a)(13)(C) and ERISA section 203(f)(3) (*e.g.,* cash balance plans) the statement must include the assumptions used to convert balances to annuities. In addition, the statement must describe the method for determining the actuarial value of assets and any other aspects of the funding method for determining the Schedule SB entries that are not prescribed by law.

Also attach a summary of the principal eligibility and benefit provisions on which the valuation was based, including the status of the plan (*e.g.,* frozen eligibility, service/pay, or benefits), optional forms of benefits, special plan provisions, including those that apply only to a subgroup of employees (*e.g.,* those with imputed service), supplemental benefits, and identification of benefits not included in the valuation, a description of any significant events that occurred during the year, a summary of any changes in principal eligibility or benefit provisions since the last valuation, and a description (or reasonably representative sample) of plan early retirement reduction factors and optional form conversion factors. Label the summary ***"Schedule SB, Part V—Summary of Plan Provisions."***

Also, include any other information needed to disclose the actuarial position of the plan fully and fairly.

Line 24. Discount Rate. All discount rates are to be reported and used as published by the IRS, and are to be applied as annual rates without adjustment.

Line 24a. Enter the three segment rates used to calculate the funding target and target normal cost as provided under Code section 430(h)(2)(C) and ERISA section 303(h)(2)(C) and as published by the IRS, unless the plan sponsor has elected to use the full yield curve. If the sponsor has elected to use the full yield curve, check the "N/A, full yield curve used" box. **Special rules for airlines using 10-year amortization period under section 402(a)(2) of PPA (as amended).** Enter the information described above to reflect the discount rates used to determine the target normal cost in accordance with Code section 430(h)(2) and ERISA section 303(h)(2). Do not enter the special 8.25% interest rate used to determine the funding target under section 402(a)(2) of PPA.

Line 24b. Code section 430(h)(2)(E) and ERISA section 303(h)(2)(E) provide that the segment rate(s) used to measure the funding target and target normal cost are those published by Treasury for the month that includes the valuation date (based on the average of the monthly corporate bond yield curves for the 24-month period ending with the month preceding that month). Alternatively, at the election of the plan sponsor, the segment rate(s) used to measure the funding target and target normal cost may be those published by Treasury for any of the four months that precede the month that includes the valuation date.

Enter the applicable month to indicate which segment rates were used to determine the funding target and target normal cost. Enter "0" if the rates used to determine the funding target and target normal cost were published for the month that includes the valuation date. Enter "1" if the rates were published for the month immediately preceding the month that includes the valuation date, "2" for the second preceding month, and "3" or "4," respectively, for the third or fourth preceding months. For example, if the valuation date is January 1 and the funding target and target normal cost were determined based on rates published for November, enter "2."

Note. The plan sponsor's interest rate election under Code section 430(h)(2) or ERISA section 303(h)(2) (an election to use the yield curve or an election to use an applicable month other than the default month) generally may not be changed unless the plan sponsor obtains approval from the IRS. However, see the regulations under section 430(h)(2) for circumstances in which a change in interest rate may be made without obtaining approval from the IRS.

Line 25. Weighted Average Retirement Age. Enter the weighted average retirement age for active participants. If the plan is in at-risk status, enter the weighted average retirement age as if the plan were not in at-risk status. If each participant is assumed to retire at his/her normal retirement age, enter the age specified in the plan as normal retirement age. If the normal retirement age differs for individual participants, enter the age that is the weighted average normal retirement age; do not enter "NRA." Otherwise, enter the assumed retirement age. If the valuation uses rates of retirement at various ages, enter the nearest whole age that is the weighted average retirement age.

On an attachment to Schedule SB, list the rate of retirement at each age and describe the methodology used to compute the weighted average retirement age, including a description of the weight applied at each potential retirement age, and label the attachment ***"Schedule SB, Line 25—Description of Weighted Average Retirement Age."***

Line 26. Mortality Tables. Mortality tables described in Code section 430(h)(3), ERISA section 303(h)(3), and section 1.430(h)(3)–1 of the regulations as published by the IRS must be used to determine the funding target and target normal cost for non-disabled participants and may be used to determine the funding target and target normal cost for disabled participants, unless the IRS has approved (or was deemed to have approved) the use of a substitute mortality table for the plan. Standard mortality tables must be either applied on a generational basis, or the tables must be updated to reflect the static tables published for the year in which the valuation date occurs. Substitute mortality tables must be applied in accordance with the terms of the IRS ruling letter.

Separate standard mortality tables were published by the IRS for annuitants (rates applying for periods when a participant is assumed to receive a benefit under the plan) and nonannuitants (rates applying to periods before a participant is assumed to receive a benefit under the plan). If a plan has 500 or fewer participants as of the valuation date for the current plan year as reported in Line 3d, column (1), the plan sponsor can elect to use the combined mortality tables published by the IRS, which reflect combined rates for both annuitants and nonannuitants.

Line 26a. Mortality Tables Used. Check the applicable box to indicate which mortality table was used to determine the funding target and target normal cost. If one mortality table was used for certain populations within the plan and a different mortality table was used for other populations, check the box for the table that applied to the largest population.

1. Check "Prescribed—combined" if the funding target and target normal cost are based on the prescribed tables with combined annuitant/nonannuitant mortality rates.
2. Check "Prescribed—separate" if the funding target and target normal cost are based on the prescribed tables with separate mortality rates for nonannuitants and annuitants.
3. Check "Substitute" if the funding target and target normal cost are based on substitute mortality tables.

Line 26b. Use of More Than One Mortality Table. If more than one mortality table was used, check the box and provide an explanation describing the mortality table used for each population and the size of that population.

Line 26c. Substitute Mortality Tables. If substitute mortality tables are used, check the box and provide a summary of plan populations for which substitute mortality tables are used, plan populations for which the prescribed tables are used, and the last plan year for which the IRS approval of the substitute mortality tables applies.

Part VI—Miscellaneous Items

Line 27. Change in Non-Prescribed Actuarial Assumptions. Check the box if a change has been made in the non-prescribed actuarial assumptions for the current plan year. Provide a description of any change in non-prescribed actuarial assumptions and justifications for any such change. If the only assumption changes are statutorily required changes in the discount or mortality rates, or changes required for plans in at-risk status, do not check the box and do not provide a description of the changes. (See section 103(d) of ERISA.) If the non-prescribed assumptions have been changed in a way that decreases the funding shortfall for the current plan year, approval for such a change may be required.

Line 28. Change in Method. Check the box if a change in the method has been made for the current plan year. For this purpose, a change in funding method refers to not only a change in the overall method used by the plan, but also each specific method of computation used in applying the overall method. Accordingly, funding method changes include modifications such as a change in the method for calculating the actuarial value of assets or a change in the valuation date (not an exclusive list). Also check the box if there has been a change in the method for determining the discount rates reported in Line 24. In general, any changes in a plan's method must be approved by the IRS. However, see the regulations under Code section 430 and Announcement 2010–3, 2010–4 I.R.B. 333, for circumstances in which a change in method may be made without obtaining approval from the IRS. Provide a description of the change.

Note. The plan sponsor's agreement to certain changes in funding method should be reported on Line 9 of Schedule R (Form 5500).

Line 29a. Schedule of Active Participant Data. Check "Yes" on Line 29a(i) only if (a) the plan is covered by Title IV of ERISA and (b) the plan has active participants. If Line 29a(i) is "Yes," complete the schedule in Line 29a(ii) with the active plan participant data used in the valuation for this plan year and enter the average age and average credited service of the active participants on Lines 29a(iii) and 29a(iv), respectively. Include all active participants in the averages, even ones that are not required to be shown in the schedule under the instructions below. For each column, enter the number of active participants with the specified number of years of credited service divided according to age group. For participants with partial years of credited service, round the total number of years of credited service to the next lower whole number. Years of credited service are the years credited under the plan's benefit formula.

Plans reporting 1,000 or more active participants on Line 3d, column (1), must also provide average compensation data. For each grouping, enter the average compensation of the active participants in that group. For this purpose, compensation is the compensation taken into account for each participant under the plan's benefit formula, limited to the amount defined under section 401(a)(17) of the Code. Do not enter the average compensation in any grouping that contains fewer than 20 participants.

In the case of a plan under which benefits are primarily pay-related and under which no future accruals are granted (*i.e.*, a "frozen" plan as defined in the instructions for Line 9a(4) of the Form 5500), check the box and report the average annual accrued benefit in lieu of average compensation.

Cash balance plans (or any similar plans that check the box on Line 9a(1) of Form 5500) reporting 1,000 or more active participants on Line 3d, column (1), must also provide average cash balance account data, regardless of whether all active participants have cash balance accounts. For each age/service bin, enter the average cash balance account of the active participants in that bin. Do not enter the average cash balance account in any age/service bin that contains fewer than 20 active participants.

General Rule. When all active participants in the plan have a cash balance account, data to be shown in each age/service bin includes:

1. The number of active participants in the age/service bin,
2. The average compensation of the active participants in the age/service bin, and
3. The average cash balance account of the active participants in the age/service bin.

If the accrued benefit is the greater of a cash balance benefit or some other benefit, average in only the cash balance account. If the accrued benefit is the sum of a cash balance account benefit and some other benefit, average in only the cash balance account. For both the average compensation and the average cash balance account, do not enter an amount for age/service bins with fewer than 20 active participants.

When some active participants do not have cash balance accounts, an alternative is provided for showing compensation and cash balance accounts, requiring two age/service scatters as follows:

- Scatter 1—Provide participant count and average compensation for *all* active participants, without account-based benefits.
- Scatter 2—Provide participant count and average cash balance account **for only those active participants with account-based benefits.** If the number of participants with account-based benefits in a bin is fewer than 20, the average account should not be shown even if there are 20 or more active participants in this bin on Scatter 1.

In general, information should be determined as of the valuation date. Average cash balance accounts may be determined as of either:

1. The valuation date or
2. The day immediately preceding the valuation date.

Average cash balance accounts that are offset by amounts from another plan may be reported either as amounts prior to taking into account the offset or as amounts after taking into account the offset. Do not report the offset amount. For this or any other unusual or unique situation, the attachment should include an explanation of what is being provided.

If the plan is a multiple-employer plan, complete one or more schedules of active participants in a manner consistent with the computations for the funding requirements reported in Part VIII. For example, if the funding requirements are computed as if each participating employer maintained a separate plan, complete a separate **Schedule of Active Participant Data** for each participating employer in the multiple-employer plan on the separate Schedule SB attached in accordance with the instructions for Line E.

Line 29b. Schedule of Retired Participants and Beneficiaries Receiving Payment Data. Check "Yes" on Line 29b(i) only if (a) the plan is covered by Title IV of ERISA and (b) the plan has retired participants and beneficiaries receiving payment at the valuation date. If Line 29b(i) is "Yes," complete the schedule in Line 29b(ii) with the retired participant and beneficiary data used in the valuation for this plan year and enter the average age and average in-pay annual benefit of the retired participants and beneficiaries on Lines 29b(iii) and 29b(iv), respectively. Do not report average annual benefit information for age bins where there are 10 or less retired participants and beneficiaries receiving payment in the average.

If the plan is a multiple-employer plan, complete one or more schedules of retired participant and beneficiary data in a manner consistent with the computations for the funding requirements reported in Part VIII. For example, if the funding requirements are computed as if each participating employer maintained a separate plan, complete a separate **Schedule of Retired Participants and Beneficiaries Receiving Payment Data** for each participating employer in the multiple-employer plan on the separate Schedule SB attached in accordance with the instructions for Line E.

Line 29c. Schedule of Terminated Vested Participant Data. Check "Yes" on Line 29c(i) only if (a) the plan is covered by Title IV of ERISA and (b) the plan has terminated vested participants at the valuation date. If Line 29c(i) is "Yes," complete the schedule in Line 29c(ii) with the terminated vested participant data used in the valuation for this plan year and enter the average age and average annual benefit of the terminated vested participants on Lines 29c(iii) and 29c(iv), respectively. Do not report average annual benefit information for age bins where there are 10 or less terminated vested participants in the average. Include the assumed form of payment and the assumed first age of payment in Lines 29c(v) and 29c(vi), respectively, for the benefit amounts shown in the schedule.

If the plan is a multiple-employer plan, complete one or more schedules of terminated vested participant data in a manner consistent with the computations for the funding requirements reported in Part VIII. For example, if the funding requirements are computed as if each participating employer maintained a separate plan, complete a separate **Schedule of Terminated Vested Participant Data** for each participating employer in the multiple-employer plan on the separate Schedule SB attached in accordance with the instructions for Line E.

Line 30. Projection of Expected Benefit Payments. Check "Yes" on Line 30a if this is a single-employer plan covered by Title IV of ERISA and is required to provide a projection of expected benefit payments. Do not report information if the plan has less than 500 participants as of the valuation date.

If Line 30a is "Yes," in Line 30b provide a projection of benefits expected to be paid (not to include expected expenses) in each of the next ten years starting with the current plan year of this filing assuming (1) no additional accruals, (2) experience (*e.g.*, termination, mortality, and retirement) are in line with valuation assumptions, and (3) no new entrants are covered by the plan.

Line 31. Alternative Funding Rules. If one of the alternative funding rules was used for this plan year, enter the appropriate code from the table below and follow the special instructions applicable to that code, including completion of any required attachments.

Code	Alternative Funding Rule
1	A CSEC Act plan that is described in Code section 414(v). This includes certain multiple-employer plans maintained by rural cooperatives and other specified cooperative organizations and certain plans maintained by more than 1 employer (determined after application of Code section 414(b) and (c)), all of which are described in Code section 501(c (3). Do not use Code 1 for a plan that satisfies the definition of CSEC plan that has made the election not to be treated as a CSEC plan.
2	This code, formerly used by certain plans maintained by PBGC settlements as described in section 105 of PPA, is no longer applicable and should not be used.
3	Reserved.
4	Plans with binding agreements with PBGC to maintain prefunding and/or funding standard carryover balances described in Code section 430(f)(4)(B)(ii) and ERISA section 303(f)(4)(B)(ii).
5	Airlines using 10-year amortization period for initial post-PPA shortfall amortization base under section 402(a)(2) of PPA (as amended).
6	Airlines with frozen plans using alternative 17-year funding schedule under section 402(a)(1) of PPA.
7	Interstate transit company described in section 115 of PPA.
8	A plan subject to 104 of PPA as amended that is not a CSEC plan. This includes plans that fit into the definition of a CSEC plan that elect out of CSEC plan status and become subject to section 104 of PPA as amended, and certain plans maintained by more than 1 employer (determined without regard to section 414(c)) where all of the employers are described in section 501(c)(3). Do not use Code 8 for a PPA section 104 plan that has made an election to not be treated as an eligible charity plan.

Special Instructions for Codes 1 through 8

CSEC Plans, as described in Code section 414(y) and subject to Code section 433 (code 1).

Reserved

Plans with binding agreements with the PBGC to maintain prefunding and/or carryover balances (code 4). Complete entire Schedule SB and attachments as outlined in these instructions. In addition, report on an attachment the amount subject to the binding agreement with the PBGC, reported separately for the funding standard carryover balance and prefunding balance. Label the attachment ***"Schedule SB, Line 31—Balances Subject to Binding Agreement with PBGC."***

Airlines using 10-year amortization period for initial post-PPA shortfall amortization base (code 5). Complete the entire Schedule SB and attachments as outlined in these instructions. Under section 402(a)(2) of PPA (as amended), the funding target for plans funded using this alternative is determined using an interest rate of 8.25% for each of the 10 years during the amortization period instead of the interest rates otherwise required under Code section 430(h)(2) and ERISA section 303(h)(2). However, this special 8.25% interest rate does not apply for other purposes, including the calculation of target normal cost or the amortization of the funding shortfall.

Airlines with frozen plans using alternative 17-year funding schedule (code 6). Complete the following lines on Schedule SB and provide associated attachments:

- Lines A through F.
- Part I (including signature of enrolled actuary)—complete all lines.
- Parts III through VII—complete all lines.

For this purpose, disregard the special funding rules under section 402(e) of PPA except for the information reported on the following lines:

- Lines 21 and 22—Discount contributions to the applicable valuation date using the 8.85% discount rate provided under section 402(e)(4)(B) of PPA.
- Line 23—Reflect required quarterly installments based on the minimum required contribution determined under section 402(e) of PPA to the extent applicable (*i.e.,* for purposes of calculating the required annual payment under Code section 430(j)(3)(D)(ii)(I) and ERISA section 303(j)(3)(D)(ii)(I)).
- Line 33—Reflect the minimum required contribution determined under section 402(e) of PPA when determining the unpaid minimum required contribution.

Also, attach a worksheet showing the information below, determined in accordance with section 402(e) of PPA. Label this worksheet ***"Schedule SB, Line 31—Alternative 17-Year Funding Schedule for Airlines."***

- Date as of which plan benefits were frozen as required under section 402(b)(2) of PPA.
- Date on which the first applicable plan year began.
- Accrued liability under the unit credit method calculated as of the first day of the plan year, using an interest rate of 8.85%.
- A summary of all other assumptions used to calculate the unit credit accrued liability.
- Fair market value of assets as of the first day of the plan year.
- Unfunded liability under section 402(e)(3)(A) of PPA.
- Alternative funding schedule:

1. Contribution necessary to amortize the unfunded liability over the remaining number of years, assuming payments at the valuation date for each plan year and using an interest rate of 8.85%;
2. Employer contributions for the plan year, discounted for interest to the valuation date for the plan year, and using a rate of 8.85%; and
3. Contribution shortfall, if any *((1)–(2) but not less than zero).*

Interstate transit company (code 7). Complete the entire Schedule SB, reflecting the modifications to the otherwise-required funding rules under section 115(b) of PPA, and disregarding the attachment required for plans reporting the use of the substitute mortality table in Line 26.

Plans entitled to delayed effective dates for PPA funding rules (code 8). For plan years before Code section 430 and ERISA section 303 apply to the plan, complete only the following lines on Schedule SB:

Lines A through F.

1. Part I (including signature of enrolled actuary), determined as if PPA provisions were effective for all plan years beginning after December 31, 2007.
2. Part III, Line 17, determined as if PPA provisions were effective for all plan years beginning after December 31, 2007.
3. Part V, determined as if PPA provisions were effective for all plan years beginning after December 31, 2007.
4. If the minimum required contribution for any year was determined using pension funding relief under section 107 of PPA '06, as added by PRA 2010, complete Part IX, Lines 45a and 45b.

Also, report other information for the current plan year using a 2007 Schedule B (Form 5500). Label this attachment ***"20XX Schedule SB, Line 31—Actuarial Information Based on Pre-PPA Funding Rules."*** Complete all items, and attach the form and all applicable attachments to the Schedule SB. Note that under PPA, the third segment rate determined under Code section 430(h)(2)(C)(iii) and ERISA section 303(h)(2)(C)(iii) is substituted for the current liability interest rate under Code section 412(b)(5)(B) and ERISA section 302(b)(5)(B) (as in effect before PPA).

Part VII—Reconciliation of Unpaid Minimum Required Contributions for Prior Years

Line 32. Unpaid Minimum Required Contributions for Prior Years. Enter the total amount of any unpaid minimum required contributions for all years from Line 44 of the Schedule SB for the prior plan year.

If this is the first year that the plan is subject to the minimum funding requirements of Code section 430 or ERISA section 303, enter the amount of any accumulated funding deficiency at the end of the prior year (the pre-effective plan year). This is the amount reported on Line 9p of the 2007 Schedule B form that was submitted as an attachment to the Schedule SB for the pre-effective plan year.

Line 33. Discounted Employer Contributions Allocated Toward Unpaid Minimum Required Contributions from Prior Years. Enter the total amount of discounted contributions made for the current plan year allocated toward unpaid minimum required contributions from prior years as reported in Line 22a.

Line 34. Remaining Unpaid Minimum Required Contributions. Enter the amount in Line 32 minus the amount in Line 33.

Part VIII—Minimum Required Contribution for Current Year

Line 35. Target Normal Cost and Excess Assets.

Line 35a. Target Normal Cost (Line 6c). Enter the target normal cost as reported in Line 6c.

Line 35b. Excess Assets. Enter the excess, if any, of the value of assets reported on Line 2b reduced by any funding standard carryover balance and prefunding balance on Line 13, columns (a) and (b), over the funding target reported on Line 3d, column (3). If the valuation date is not the first day of the plan year, excess assets are determined as the value of assets reported on Line 2b reduced by any funding standard carryover balance and prefunding balance reported on Line 13, columns (a) and (b), adjusted for interest at the effective interest rate for the period between the beginning of the plan year and the valuation date, minus the funding target reported on Line 3d, column (3) (but not less than zero). Limit the amount reported in Line 35b so that it is not greater than the target normal cost reported in Line 35a.

Line 36. Amortization Installments.

Line 36a. Shortfall Amortization Bases and Amortization Installments.

Outstanding balance. If the plan's funding shortfall (determined under Code section 430(c)(4) and ERISA section 303(c)(4)) is zero, all amortization bases and related installments are considered fully amortized. In this case, enter zero. Otherwise, enter the sum (but not less than zero) of the outstanding balances of all shortfall amortization bases (including any new shortfall amortization base established for the current plan year). The outstanding balance for each amortization base established in past years is equal to the present value as of the valuation date of any remaining amortization installments for each base (including the amortization installment for the current plan year), using the interest rates reported on Line 24.

A plan is generally exempt from the requirement to establish a new shortfall amortization base for the current plan year if the funding target reported on Line 3d, column (3), is less than or equal to the reduced value of assets as described below.

For the purpose of determining whether a plan is exempt from the requirement to establish a new shortfall amortization base for the current plan year, the reduced value of assets is the amount reported on Line 2b, reduced by the full value of the prefunding balance reported on Line 13, column (b), adjusted for interest for the period between the beginning of the plan year and the valuation date using the effective interest rate for the current plan year, if the valuation date is not the first day of the plan year. However, the assets are reduced by the prefunding balance if and only if the plan sponsor has elected to use any portion of the prefunding balance to offset the minimum required contribution for the current plan year, as reported on Line 39. The assets are not reduced by the amount of any funding standard carryover balance for this calculation regardless of whether any portion of the funding standard carryover balance is used to offset the minimum required contribution for the plan year.

If the plan is not exempt from the requirement to establish a new shortfall amortization base for the current plan year, the amount of that base is generally equal to the difference between the funding shortfall as of the valuation date (determined under Code section 430(c)(4) and ERISA section 303(c)(4)) and the sum of any outstanding balances of any previously established shortfall and waiver amortization bases. The new shortfall amortization base may be either greater than or less than zero.

For the purpose of determining the amount of any new shortfall amortization base, the funding shortfall is equal to the amount of the funding target reported on Line 3d, column (3), minus the reduced value of assets, but not less than zero.

If the plan's valuation date is the first day of the plan year, then the reduced value of assets for the purpose of determining the amount of any new shortfall amortization base is the amount reported on Line 2b, reduced by the sum of the funding standard carryover balance and the prefunding balance reported on Line 13, columns (a) and (b). However, if the plan's valuation date is not the first day of the plan year, then the reduced value of assets for the purpose of determining the amount of any new shortfall amortization base is the amount reported on Line 2b, reduced by the sum of the funding standard carryover balance and the prefunding balance reported on Line 13, columns (a) and (b), adjusted for interest for the period between the beginning of the plan year and the valuation date (using the effective interest rate for the current plan year). See Code section 430(f)(4)(B)(ii) and ERISA section 303(f)(4)(B)(ii) for special rules in the case of a binding agreement with the PBGC providing that all or a portion of the funding standard carryover balance and/or prefunding balance is not available to offset the minimum required contribution for the plan year.

Shortfall amortization installment—Enter the sum (but not less than zero) of:

1. Any shortfall amortization installments that were established to amortize shortfall amortization bases established in prior years, excluding amortization installments for bases that have been or are deemed to be fully amortized, and
2. The shortfall amortization installment that corresponds to any new shortfall amortization base established for the current plan year. This amount is the level amortization payment that will amortize the new shortfall amortization base over 7 annual payments, using the interest rates reported in Line 21 for the current plan year.

Note. (1) Shortfall amortization installments for a given shortfall amortization base are not re-determined from year to year regardless of any changes in interest rates or valuation dates. (2) If an election was made to use an alternative shortfall amortization schedule under Code section 430(c)(2)(D) and ERISA section 303(c)(2)(D) added by PRA 2010, the shortfall amortization installment is the amount determined in accordance with the shortfall amortization schedule chosen and guidance issued by Treasury and the IRS. Include any increase to the shortfall amortization installment for this year due to the installment acceleration amount, as provided in Code section 430(c)(7) and ERISA section 303(c)(7).

Line 36b. Waiver Amortization Bases and Amortization Installments.

Outstanding balance—If the plan's funding shortfall (determined under Code section 430(c)(4) and ERISA section 303(c)(4)) is zero, all waiver amortization bases and related installments are considered fully amortized. In this case, enter zero. Otherwise, enter the present value as of the valuation date of all remaining waiver amortization installments (including any installment for the current plan year), using the interest rates reported on Line 24. Do not include any new waiver amortization base established for a waiver of minimum funding requirements for the current plan year.

Waiver amortization installments—Enter the sum of any remaining waiver amortization installments that were established to amortize any waiver amortization bases for prior plan years, unless such bases have been or are deemed to be fully amortized. Do not include an amortization installment for any new waiver amortization base established for a waiver of minimum funding requirements for the current plan year.

Note. If a waiver of minimum funding requirements has been granted for the current plan year, a waiver amortization base is established as of the valuation date for the current plan year equal to the amount of the funding waiver reported in Line 37. The waiver amortization installment that corresponds to any waiver amortization base established for the current year is the level amortization payment that will amortize the new waiver amortization base over 5 annual payments, using the same segment interest rates or rates from the full yield curve reported on Line 24 for the *current* plan year, but with the first payment due on the valuation date for the *following* plan year. The amount of the waiver amortization base and the waiver amortization installments for this base are not reported in Line 36b for the year in which they are established. Rather, these are included in the entries for Line 36b on the Schedule SB for the following plan year.

Note. Waiver amortization installments (including the waiver amortization installments of any waiver amortization base established for the prior plan year) are not re-determined from year to year regardless of any changes in interest rates or valuation dates.

Required Schedule of Amortization Bases. If there are any shortfall or waiver amortization bases, complete the schedule listing all bases (other than a base established for a funding waiver for the current plan year) showing for each base:

1. The type of base (shortfall or waiver),
2. The present value of any remaining installments (including the installment for the current plan year),
3. The valuation date as of which the base was established,
4. The number of years remaining in the amortization period, and
5. The amortization installment.

If a base is negative (*i.e.*, a "gain base"), show amounts in parentheses or with a negative sign in front of them. All amounts must be calculated as of the valuation date for the plan year.

If any of the shortfall amortization bases shown on this schedule are being amortized using an alternative amortization schedule in accordance with Code section 430(c)(2)(D) or ERISA section 303(c)(2)(D), identify the amortization schedule being used and show separately the amount of any installment acceleration amount added to the shortfall amortization installment for the current plan year under Code section 430(c)(7) or ERISA section 303(c)(7).

Line 37. Funding Waiver. If a waiver of minimum funding requirements has been approved for the current plan year, enter the date of the ruling letter granting the approval and the waived amount (reported as of the valuation date) in the spaces provided. *If a waiver is pending, do not complete this line.* If a pending waiver is granted after Form 5500 Annual Return/Report is filed, file an amended Form 5500 with an amended Schedule SB.

Line 38. Total Funding Requirement Before Reflecting Carryover/Prefunding Balances. Enter the target normal cost in Line 35a, minus the excess assets in Line 35b, plus the amortization installments reported in Lines 36a and 36b, reduced by any waived amounts reported in Line 37.

Line 39. Balances Elected for Use to Offset Funding Requirement. If the percentage reported on Line 19 is at least 80%, and the plan has a funding standard carryover balance and/or prefunding balance (as reported on Line 13, columns (a) and (b)), the plan sponsor may elect to credit all or a portion of such balances against the minimum required contribution. Enter the amount of any balance elected for use for this purpose in the applicable column of Line 39, and enter the total in the column headed "Total Balance." No portion of the prefunding balance can be used for this purpose unless the full amount of any remaining funding standard carryover balance (Line 13, column (a)) is used. The amounts entered on Line 39 cannot be larger than the corresponding amounts on Line 13 (unless the plan's valuation date is not the first day of the plan year, as discussed below).

If the plan's valuation date is not the first day of the plan year, adjust the portion of the funding standard carryover balance and prefunding balance used to offset the minimum required contribution for interest between the beginning of the plan year and the valuation date using the effective interest rate for the current plan year.

Special rule for late election to apply balances to quarterly installments. If an election was made to use the funding standard carryover balance or the prefunding balance to offset the amount of a required quarterly installment, but the election was made after the due date of the installment, the amount reported on Line 39 may not be the same amount that is subtracted from the plan's balances in the following plan year (to be reported in Line 8 of Schedule SB for the following plan year). Refer to the regulations under Section 430 of the Code for additional information.

Special rule for elections to use balances in excess of the minimum required contribution. Section 1.430(f)–1(f)(3)(ii) of the regulations provides an exception to the general rule requiring that any elections to use the funding standard carryover balance and/or prefunding balance to offset the minimum required contribution are irrevocable. Under this exception, such an election may be revoked to the extent that the amount of the election exceeds the minimum required contribution for the plan year as reported in Line 38. If a timely election is made to revoke the excess amount, report only the amount of the election used to offset the minimum required contribution on Line 39. If the excess amount is not revoked by means of a timely election, report the full amount of the election on Line 39 even if it exceeds the minimum required contribution reported on Line 38.

Line 40. Additional Cash Requirement. Enter the amount in Line 38 minus the amount in the "Total Balance" column in Line 39. (The result cannot be less than zero.) This represents the contribution needed to satisfy the minimum funding requirement for the current year, adjusted for interest to the valuation date.

Line 41. Contributions Allocated Toward Minimum Required Contribution for Current Year, Adjusted to Valuation Date. Enter the amount reported in Line 22c.

Line 42. Present Value of Excess Contributions for Current Year.

Line 42a. If Line 41 is greater than Line 40, enter the amount by which Line 41 exceeds line 40. Otherwise, enter "0." This amount (plus interest, if applicable) is the maximum amount by which the plan sponsor may elect to increase the prefunding balance.

Line 42b. Enter the amount of any portion of the amount shown on Line 42a that results solely from the use of the funding standard carryover balance and/or prefunding balance to offset the minimum required contribution.

Line 43. Unpaid Minimum Required Contribution for Current Year. If Line 41 is less than Line 40, enter the amount by which Line 40 exceeds Line 41. Otherwise, enter "0".

Line 44. Unpaid Minimum Required Contributions for All Years. Enter the sum of the remaining unpaid minimum required contributions from Line 34 and the unpaid minimum required contribution for the current year from Line 43. If this amount is greater than zero, file Form 5330, Return of Excise Taxes Related to Employee Benefit Plans and pay the 10% excise tax on the unpaid minimum required contributions.

Part IX—Election to Use Pension Funding Relief under PRA 2010

Note. This section is completed only if:

(1) an election was made to use an alternative shortfall amortization schedule for any election year under Code section 430(c)(2)(D) or ERISA section 303(c)(2)(D), or

(2) in the case of a plan subject to a delayed effective date for PPA funding rules under section 104 of PPA, an election was made to determine the minimum required contribution for any election year using the extended amortization periods under section 107 of PPA '06, as added by PRA 2010 (complete Lines 45a and 45b only).

Line 45a. Schedule elected. Check the applicable box to indicate which alternative shortfall amortization schedule is being used, the 2 plus 7-year schedule or the 15-year being used, the 2 plus 7-year schedule or the 15-year schedule.

Line 45b. Eligible plan year(s) for which the election in Line 45a was made. Check the box(es) to indicate the eligible plan years for which the election was made to use an alternative amortization schedule under Code section 430(c)(2)(D) or ERISA section 303(c)(2)(D) or the relief under section 107 of PPA '06 as added by PRA 2010. Note that an election to use an alternative amortization schedule may only be made with respect to one or two eligible plan years. Refer to Code section 430(c)(2)(D)(v) or ERISA section 303(c)(2)(D)(v) for the definition of eligible plan years.

Line 46. Amount of acceleration adjustment. Enter the total amount included in the shortfall amortization installments reported for the current year on Line 36a as a result of increases due to any installment acceleration amount under Code section 430(c)(7) or ERISA section 303(c)(7), taking into account any amounts carried over from previous years and the annual limitation in Code section 430(c)(7)(C)(ii) or ERISA section 303(c)(7)(C)(ii).

Line 47. Excess installment acceleration amount to be carried over to future plan years. Enter the amount of any excess installment acceleration amount for the current year (including any amounts carried to the current year from prior years) that will be carried over to future plan years in accordance with Code section 430(c)(7)(C)(iii) or ERISA section 303(c)(7)(C)(iii).

Quick Reference Charts

Note. The following series of quick reference charts set forth a general summary of filing requirements for pension plans, welfare plans that provide group health benefits, welfare plans other than group health, and direct filing entities. Not all rules and requirements are reflected for the various types of filers.

CAUTION: *Refer to specific Form 5500 Annual Return/Report instructions for complete information on filing requirements (e.g., Who Must File and What To File). These charts do not include filing requirements for small plans eligible to file the Form 5500–SF or the new registration alternative for small fully insured group health plans.*

Make sure you are reading the right chart for your type of plan or filing entity:

1. Pension Plans Required to File the Form 5500
2. Direct Filing Entities Other Than Group Insurance Arrangements (GIAs)
3. Welfare Plans and GIAs That Provide Group Health Benefits
4. Welfare Plans *Other Than* Group Health

Pension Plans Required to File the Form 5500

(Does not include filing requirements for small plans eligible to file the Form 5500–SF). This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 Annual Return/Report instructions for complete information on filing requirements (e.g., *Who Must File* and *What To File*).

	Large Pension Plan	Small Pension Plan
Form 5500	Must complete	Must complete unless eligible to File Form 5500–SF. Pension plans and welfare plans with fewer than 100 participants at the beginning of the plan year that are not exempt from filing an annual return/report may be eligible to file the Form 5500–SF, a simplified report. In addition to the limitation on the number of participants, a Form 5500–SF may only be filed for a plan that is exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant (but not by reason of enhanced bonding), has 100 percent of its assets invested in certain secure investments with a readily determinable fair market value, holds no employer securities, and is not a multiemployer plan. See *Who Must File*. Defined contribution pension plans (other than those that check the "first plan year" box, which use Line 6) that otherwise meet the conditions for filing the Form 5500–SF use the count on Line 7g(1)—number of participants with account balances at the beginning of the year—to determine whether they are a small plan.
Schedule A (Insurance Information).	Must complete if plan has insurance contracts	Must complete if plan has insurance contracts.

	Large Pension Plan	Small Pension Plan
Schedule C (Service Provider Information).	Must complete Part I if (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.	Must complete Part I if (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.
Schedule D (DFE/Participating Plan Information).	Not required	Not required
Schedule G (Financial Schedules).	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes.".	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes" and plan is not eligible for the audit waiver under 29 CFR 2520.104–46.
Schedule H (Financial Information).	Must complete	Must complete
Line 4a Schedule of Delinquent Participant Contributions.	Must check "yes" to Schedule H, Line 4a and complete if plan had delinquent contributions (see instructions).	Must check "yes" to Schedule H, Line 4a and complete if plan had delinquent contributions (see instructions).
Line 4i(1) Schedule of Assets Held for Investment at EOY.	Must check "yes" to Schedule H, Line 4i(1) and complete if plan held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end)). If invested in a CCT or PSA that has not filed a Form 5500, must break out the underlying investments of the CCT and PSA, indicating assets held through a CCT or PSA. If invested in a CCT or PSA that has filed the Form 5500, may report individual CCTs and PSAs at the CCT/PSA level, indicating the Line 1b category for type of CCT/PSA investment.	Must check "yes" to Schedule H, Line 4i(1) and complete if plan held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end)). If invested in a CCT or PSA that has not filed a Form 5500, must break out the underlying investments of the CCT and PSA, indicating assets held through a CCT or PSA. If invested in a CCT or PSA that has filed the Form 5500, may report individual CCTs and PSAs at the CCT/PSA level, indicating the Line 1b category for type of CCT/PSA investment.
Line 4i(2) Schedule of Assets Disposed of During the Plan Year.	Must check "yes" to Schedule H, Line 4i(2) and complete if plan disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions).	Must check "yes" to Schedule H, Line 4i(2) and complete if plan disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions).
Line 4j Schedule of Reportable Transactions.	Must check "yes" to Schedule H, Line 4j and complete if plan had transactions involving 5% or more of plan assets.	Must check "yes" to Schedule H, Line 4j and complete if plan had transactions involving 5% or more of plan assets.
Schedule J	Pension plans do NOT need to complete unless providing retiree health benefits or otherwise providing "group health benefits".	Pension plans do NOT need to complete unless providing retiree health benefits or otherwise providing "group health benefits".
Schedule MB (Actuarial Information).	Must complete if multiemployer defined benefit pension plan or money purchase plan subject to minimum funding standards.	Must complete if multiemployer defined benefit pension plan or money purchase plan subject to minimum funding standards.
Schedule R (Pension Plan Information).	Must complete. Money purchase defined contribution pension plans that are amortizing a funding waiver are required to complete Lines 3, 9, and 10 of the Schedule MB in accordance with the instructions. Also see instructions for Line 6 and 7a of Schedule R. Schedule R should not be completed when the Form 5500 Annual Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 instructions for Limited Pension Plan Reporting for more information.	Must complete. Money purchase defined contribution pension plans that are amortizing a funding waiver are required to complete Lines 3, 9, and 10 of the Schedule MB in accordance with the instructions. Also see instructions for Line 6 and 7a of Schedule R. Schedule R should not be completed when the Form 5500 Annual Return/Report is filed for a pension plan that uses, as the sole funding vehicle for providing benefits, individual retirement accounts or annuities (as described in Code section 408). See the Form 5500 instructions for Limited Pension Plan Reporting for more information.
Schedule SB (Actuarial Information).	Must complete if single-employer or multiple-employer defined benefit pension plan, including an eligible combined plan and subject to minimum funding standards.	Must complete if single-employer or multiple-employer defined benefit pension plan, including an eligible combined plan and subject to minimum funding standards.
Accountant's Opinion (IQPA Report).	Must attach	Required unless Schedule H, Line 3h(4) is checked to indicate that the plan is a small plan that meets the requirements of 29 CFR 2520.104–46.

Direct Filing Entities Other Than Group Insurance Arrangements (GIAs)). This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 Annual Return/Report instructions for complete information on filing requirements (e.g., *Who Must File* and *What To File*).

	Master Trusts	CCTs/PSAs	103–12 IEs
Form 5500	Must complete	CCTs and PSAs are not required to file a Form 5500, but filing by the CCT/PSA relieves investing plans of certain reporting obligations.	Certain collective investment vehicles that hold plan assets are permitted to elect to file a Form 5500, which filing relieves investing plans of certain reporting obligations.
Schedule of Participating Employers.	Not required	Not required	Not required
Schedule A (Insurance Information).	Must complete if plan has insurance contracts.	Not required	Must complete if plan has insurance contracts.
Schedule C (Service Provider Information).	Must complete Part I if (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.	Not required	Must complete Part I if (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year , including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.
Schedule D (DFE/Participating Plan Information).	Must complete	Must complete	Must complete
Schedule G (Financial Schedules)	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes.".	Not required	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes.".
Schedule H (Financial Information).	Must complete	Must complete	Must complete
Line 4a Schedule of Delinquent Participant Contributions.	Not required	Not required	Not required
Line 4i(1) Schedule of Assets Held for Investment at EOY.	Must check "yes" to Schedule H, Line 4i(1) and complete if master trust held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end).	Must check "yes" to Schedule H, Line 4i(1) and complete if plan held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end).	Must check "yes" to Schedule H, Line 4i(1) and complete if 103–12 IE held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end)
Line 4i(2) Schedule of Assets Disposed of During the Plan Year.	Must check "yes" to Schedule H, Line 4i(2) and complete if master trust disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions).	Not required	Must check "yes" to Schedule H, Line 4i(2) and complete if 103–12 IE disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions)
Line 4j Schedule of Reportable Transactions.	Must check "yes" to Schedule H, Line 4j and complete if master trust had transactions involving 5% or more of assets.	Not required	Not required
Schedule J	Not required	Not required	Not required
Schedule MB (Actuarial Information).	Not required	Not required	Not required
Schedule R (Pension Plan Information).	Not required	Not required	Not required
Schedule SB (Actuarial Information).	Not required	Not required	Not required
Accountant's Opinion (IQPA Report).	Not required	Not required	Must attach

Welfare Plans and Group Insurance Arrangements (GIAs) That Provide Health Benefits[44] This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 Annual Return/Report instructions for complete information on filing requirements (e.g., *Who Must File* and *What To File*).

	Large welfare plans providing health benefits	Small welfare plans providing health benefits	Group insurance arrangements that provide health benefits (GIAs)
Form 5500	Must complete	Must complete. Exception: Small fully insured group health plans complete only certain questions.	Must complete.
Schedule of Participating Employers.	Multiple employer plans and plans covering members of a controlled group must complete.	Multiple employer plans and plans covering members of a controlled group must complete.	Must complete
Schedule A (Insurance Information).	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts. Exception: Small fully insured group health plans do not complete.	Must complete
Schedule C (Service Provider Information).	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts) and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I. Exception: Unfunded, fully insured, or combination unfunded/fully insured group health plans are exempt under 29 CFR 2520.104–44 from completing Schedule C.	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts) and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I. Exception: Unfunded, fully insured, or combination unfunded/fully insured group health plans are exempt under 29 CFR 2520.104–44 from completing Schedule C.	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.
Schedule D (DFE/ Participating Plan Information).	Not required for plans	Not required for plans	Must complete to report participating plans.
Schedule G (Financial Schedules).	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes.". Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from completing Parts I and II but must still complete Schedule G, Part III to report non-exempt transactions.	Not required	Must complete if Schedule H, Lines 4b, 4c, or 4d for a GIA, are answered "Yes." Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from completing Parts I and II but GIA's must still complete Schedule G, Part III to report non-exempt transactions for participating plans.
Schedule H (Financial Information).	Must complete if plan is partly or fully funded with a trust (including a VEBA). Unfunded, fully insured, or combination unfunded/fully insured group health plans are exempt under 29 CFR 2520.104–44 from completing Schedule H.	Must complete if plan is partly or fully funded with a trust (including a VEBA). Unfunded, fully insured, or combination unfunded/fully insured group health plans are exempt under 29 CFR 2520.104–44 from completing Schedule H.	Must complete
Line 4a Schedule of Delinquent Participant Contributions.	Must complete if required to complete Schedule H.	Not required	Not required
Line 4i(1) Schedule of Assets Held for Investment at EOY.	If required to complete Schedule H, must check "yes" to Schedule H, Line 4i(1) and complete if plan held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end).	Not required	Must complete
Line 4i(2) Schedule of Assets Disposed of During the Plan Year.	If required to complete Schedule H, must check "yes" to Schedule H, Line 4i(2) and complete if plan disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions).	Not required	Must complete

	Large welfare plans providing health benefits	Small welfare plans providing health benefits	Group insurance arrangements that provide health benefits (GIAs)
Line 4j Schedule of Reportable Transactions.	If required to complete Schedule H, must check "yes" to Schedule H, Line 4j and complete if plan had transactions involving 5% or more of plan assets.	Not required	Must complete
Schedule J	Must complete	Must complete entire Schedule J if not fully insured. If fully insured, must complete Lines 1–8.	Must complete a separate Schedule J for each participating employer.
Schedule MB (Actuarial Information).	Not required	Not required	Not required
Schedule R (Pension Plan Information).	Not required	Not required	Not required
Schedule SB (Actuarial Information).	Not required	Not required	Not required
Accountant's Opinion (IQPA Report).	Must complete if plan is partly or fully funded with a trust (including a VEBA). Unfunded, fully insured, or combination unfunded/fully insured group health plans are exempt under 29 CFR 2520.104–44 from the IQPA report.	Not required	Must attach.

Welfare Plans *Other Than* Group Health This chart provides only general guidance. Not all rules and requirements are reflected. Refer to specific Form 5500 Annual Return/Report instructions for complete information on filing requirements (e.g., *Who Must File* and *What To File*).

	Large welfare plans NOT providing health plan benefits	Small welfare plans NOT providing health plan benefits	Group insurance arrangements (GIAs) NOT providing health benefits
Form 5500	Must complete	Must complete, except (1) unfunded, fully insured, or combination unfunded/fully insured welfare plans covering fewer than 100 participants at the beginning of the plan year that meet the requirements of 29 CFR 2520.104–20 are exempt from filing an annual report. (2) Welfare plans with fewer than 100 participants at the beginning of the plan year that are not exempt from filing an annual return/report may be eligible to file the Form 5500–SF, a simplified report. **Note:** If plan provides group health benefits, follow the filing instructions for group health plans.	Must complete
Schedule of Participating Employers.	Multiple employer plans and plans covering members of a controlled group must complete.	Multiple employer plans and plans covering members of a controlled group must complete.	Must complete
Schedule A (Insurance Information).	Must complete if plan has insurance contracts.	Must complete if plan has insurance contracts.	Must complete

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[44] Pension plans that also provide health benefits must follow the rules for pension plan filings and must also attach a Schedule J to report on health benefits.

	Large welfare plans NOT providing health plan benefits	Small welfare plans NOT providing health plan benefits	Group insurance arrangements (GIAs) NOT providing health benefits
Schedule C (Service Provider Information).	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts) and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I. Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from completing Schedule C.	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts) and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I. Exception: Unfunded, fully insured, or combination unfunded/fully insured welfare benefit plans are exempt under 29 CFR 2520.104–44 from completing Schedule C.	Must complete Part I for (1) each covered service provider who received $1,000 or more in total direct and indirect compensation (i.e., money or anything else of monetary value in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts and (2) other persons who received $5,000 or more in direct compensation in connection with services rendered to the plan or the person's position with the plan during the plan year, including payments from participants' accounts; and Part II if a service provider failed to provide information necessary for the completion of Part I.
Schedule D (DFE/Participating Plan Information).	Not required	Not required	Must complete to report participating plans.
Schedule G (Financial Schedules).	Must complete if Schedule H, Lines 4b, 4c, or 4d are "Yes." Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from completing Parts I and II but must still complete Schedule G, Part III to report nonexempt transactions.	Not required	Must complete if Schedule H, Lines 4b, 4c, or 4d are answered "Yes."
Schedule H (Financial Information).	Must complete if plan is partly or fully funded with a trust (including a VEBA). Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from completing Schedule H.	Not required	Must complete
Line 4a Schedule of Delinquent Participant Contributions	Must complete if required to complete Schedule H.	Not required	Not required
Line 4i(1) Schedule of Assets Held for Investment at EOY	Must check "Yes" to Schedule H, Line 4i(1) and complete if plan held assets at end of year (all plans except those that are filing final return/report with -0- assets at year end).	Not required	Must complete
Line 4i(2) Schedule of Assets Disposed of During the Plan Year	Must check "Yes" to Schedule H, Line 4i(2) and complete if plan disposed of assets during the plan year. Certain readily tradable assets not required to be reported (see instructions).	Not required	Must complete
Line 4j Schedule of Reportable Transactions	Must check "Yes" to Schedule H, Line 4j and complete if plan had transactions involving 5% or more of plan assets.	Not required	Must complete
Schedule J	Not required	Not required	Not required
Schedule MB (Actuarial Information).	Not required	Not required	Not required
Schedule R (Pension Plan Information).	Not required	Not required	Not required
Schedule SB (Actuarial Information).	Not required	Not required	Not required

	Large welfare plans NOT providing health plan benefits	Small welfare plans NOT providing health plan benefits	Group insurance arrangements (GIAs) NOT providing health benefits
Accountant's Opinion (IQPA Report).	Large welfare plans must complete if plan is partly or fully funded with a trust (including a VEBA). Unfunded, fully insured, or combination unfunded/fully insured welfare plans are exempt under 29 CFR 2520.104–44 from the IQPA report.	Not required	Must attach.

ERISA Compliance Quick Checklist

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary. Do not file it with your Form 5500.

If you answer "No" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports or annual pension funding reports?
2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?
3. Do you respond to written participant inquires for copies of plan documents and information within 30 days?
4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?
5. Is your plan covered by fidelity bonds protecting the plan against losses due to fraud or dishonesty by persons who handle plan funds or other property?
6. Are the plan's investments diversified so as to minimize the risk of large losses?
7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?
8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks associated with plan investments before making the investments?
9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?
10. Did the plan pay participant benefits on time and in the correct amounts?
11. Did the plan give participants and beneficiaries 30 days advance notice before imposing a "blackout period" of at least three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to change their plan investments, obtain loans from the plan, or obtain distributions from the plan?

If you answer "Yes" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official? (For example, has the plan made a loan to or participated in an investment with the employer?)
2. Has the plan official used the assets of the plan for his/her own interest?
3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Employee Benefits Security Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

APPENDIX C

Form 5500–SF Instructions

20XX Instructions for Form 5500–SF (Short Form Annual Return/Report of Small Employee Benefit Plan)

Code section references are to the Internal Revenue Code unless otherwise noted. ERISA refers to the Employee Retirement Income Security Act of 1974.

Changes to Note [The instructions for the year in which the revisions are implemented will include such items in the "Changes to Note" section.]

Table of Contents [The final version of the Instructions for 20XX will include a Table of Contents in substantially the same format as the existing Table of Contents]

EFAST2 Processing System

Under the computerized ERISA Filing Acceptance System (EFAST), you must electronically file your 20XX Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan. You may file your 20XX Form 5500–SF online using EFAST2's web-based filing system or you may file through an EFAST2-approved vendor. You cannot file a paper Form 5500–SF by mail or other delivery service. For more information, see the instructions for *How To File—Electronic Filing Requirement* on page **xx** and the EFAST2 Web site at *www.efast.dol.gov*.

How To Get Assistance

If you need help completing this form, or have other questions, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) (toll free) or access the EFAST2 or IRS Web sites. The EFAST2 Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

You can access the EFAST2 Web site 24 hours a day, 7 days a week at *www.efast.dol.gov* to:

- File the Form 5500–SF or 5500 and any needed schedules or attachments.
- Check on the status of a filing you submitted.
- View filings posted by EFAST2.
- Register for electronic credentials to sign or submit filings.
- View forms and related instructions.
- Get information regarding EFAST2, including approved software vendors.
- See answers to frequently asked questions about the Form 5500–SF, the Form 5500 and its schedules, and EFAST2.
- Access the main Employee Benefits Security Administration (EBSA) and DOL Web sites for news, regulations, and publications.

You can access the IRS Web site 24 hours a day, 7 days a week at *www.irs.gov* to:

- View forms, instructions, and publications.
- See answers to frequently asked tax questions.
- Search publications online by topic or keyword.
- Send comments or request help by email.
- Sign up to receive local and national tax news by email.

You can order other IRS forms and publications at the IRS Web site at *www.irs.gov/orderforms*. You can order EBSA publications by calling 1–866–444–EBSA (3272).

General Instructions

The Form 5500–SF, Short Form Annual Return/Report of Small Employee Benefit Plan, is a simplified annual reporting form for use by certain small pension and welfare benefit plans. To be eligible to use the Form 5500–SF, the plan must:

- Be a small plan (*i.e.,* generally have fewer than 100 participants at the beginning of the plan year);
- Meet the conditions for being exempt from the requirement that the plan's books and records be audited by an independent qualified public accountant (IQPA);
- Have 100% of its assets invested in certain secure investments with a readily determinable fair value;
- Hold no employer securities;
- Not be a multiemployer plan; and
- Not provide health benefits.

Plans required to file an annual return/report that are not eligible to file the Form 5500–SF, must file a Form 5500, Annual Return/Report of Employee Benefit Plan, with all required schedules and attachments

(Form 5500), or Form 5500–EZ, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan.

To reduce the possibility of correspondence and penalties, we remind filers that the Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC) have consolidated their annual return/report forms to minimize the filing burden for employee benefit plans. Administrators and sponsors of employee benefit plans generally will satisfy their IRS and DOL annual reporting requirements for the plan under ERISA sections 104 and 4065 and Code sections 6058 and 6059 by filing either the Form 5500, Form 5500–SF, or Form 5500–EZ. Defined contribution and defined benefit pension plans may have to file additional information with the IRS including: Form 8955–SSA, Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.; Form 5330, Return of Excise Taxes Related to Employee Benefit Plans; Form 5310–A, Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business. See *www.irs.gov* for more information. Defined benefit pension plans covered by the PBGC have special additional requirements, including filing premiums and reporting certain transactions directly with that agency. See the PBGC's Web site at *www.pbgc.gov/practitioners* for information on premium filings and reporting and disclosure requirements.

Note. The Form 5500–EZ generally is used by "one-participant plans or certain foreign plans" (as defined under *Specific Instructions Only for "One-Participant Plans and certain foreign plans"*) that are not subject to the requirements of section 104(a) of ERISA to satisfy certain annual reporting and filing obligations imposed by the Code. A "one-participant plan *and certain foreign plan*" may also be eligible to file Form 5500–SF. See *Specific Instructions Only for "One-Participant Plans and certain foreign plans."* A "one-participant plan or certain foreign plan" that is eligible to file Form 5500–SF may elect to file Form 5500–SF electronically with EFAST2 rather than filing a Form 5500–EZ on paper with the IRS. A "one-participant plan or certain foreign plan" that is not eligible to file Form 5500–SF must file Form 5500–EZ on paper with the IRS. For more information on filing with the IRS, go to *www.irs.gov* or call 1–877–829–5500.

[CAUTION] *Abbreviated filing requirements apply for one-participant plan filers who are eligible to file Form 5500–SF. See Specific Instructions Only for "One-Participant Plans" on page XX.*

The Form 5500–SF must be filed electronically. See *How To File—Electronic Filing Requirement* instructions and the EFAST2 Web site at *www.efast.dol.gov*. Your Form 5500–SF entries will be initially screened electronically. Your entries must satisfy this screening for your filing to be received. Once received, your form may be subject to further detailed review, and your filing may be rejected based upon this further review.

ERISA and the Code provide for the assessment or imposition of penalties for not submitting the required information when due. See *Penalties.*

Annual returns/reports filed under Title I of ERISA must be made available by plan administrators to plan participants and beneficiaries and by the DOL to the public pursuant to ERISA sections 104 and 106. Pursuant to Section 504 of the Pension Protection Act of 2006 (PPA), this availability for defined benefit pension plans must include the posting of identification and basic plan information and actuarial information (Form 5500–SF, Schedule SB or MB, and all of the Schedule SB or MB attachments) on any plan sponsor intranet Web site (or Web site maintained by the plan administrator on behalf of the plan sponsor) that is used for the purpose of communicating with employees and not the public. Section 504 also requires DOL to display such information on DOL's Web site within 90 days after the filing of the plan's annual return/report. To see 2009 and later Forms 5500–SF, including actuarial information, see *www.dol.gov/ebsa. See www.dol.gov/ebsa/actuarialsearch.html* for 2008 and short plan year 2009 actuarial information filed under the previous paper-based system.

Pension and Welfare Plans Required To File Annual Return/Report

All pension benefit plans and welfare benefit plans covered by ERISA must file a Form 5500 or Form 5500–SF for a plan year unless they are eligible for a filing exemption. (See Code sections 6058 and 6059 and ERISA sections 104 and 4065). An annual return/report must be filed even if the plan is not "tax qualified," benefits no longer accrue, contributions were not made during this plan year, or contributions are no longer made. Pension benefit plans required to file include both defined benefit pension plans and defined contribution pension plans. Profit-sharing plans, stock bonus plans, money purchase plans, 401(k) plans, Code section 403(b) plans covered by Title I of ERISA, and IRA plans established by an employer are among the pension benefit plans for which an annual return/report must be filed. Welfare benefit plans provide benefits such as medical, dental, life insurance, apprenticeship and training, scholarship funds, severance pay, disability, etc. Plans that cover residents of Puerto Rico, the U.S. Virgin Islands, Guam, Wake Island, or American Samoa also must file unless they are eligible for a filing exemption. This includes a plan that elects to have the provisions of section 1022(i)(2) of ERISA apply.

For more information about annual return/report filings for Code section 403(b) plans covered by Title I of ERISA, see Field Assistance Bulletins 2009–02 and 2010–01, available on the DOL Web site at *www.dol.gov.*

Plans Exempt From Filing

Under regulations and applicable guidance, some pension benefit plans and many welfare benefit plans with fewer than 100 participants are exempt from filing an annual return/report. Do not file a Form 5500–SF for an employee benefit plan that is any of the following:

1. An unfunded excess benefit plan. See ERISA section 4(b)(5).
2. A pension benefit plan maintained outside the United States primarily for the benefit of persons substantially all of whom are nonresident aliens. However, certain foreign plans are required to file the **Form 5500–EZ** with the IRS. See the instructions to the Form 5500–EZ for the filing requirements. For more information, go to *www.irs.gov/ep* or call 1–877–829–5500.
3. An annuity or custodial account arrangement under Code section 403(b)(1) or (7) not established or maintained by an employer as described in DOL Regulations 29 CFR 2510.3–2(f).
4. A simplified employee pension (SEP) described in Code section 408(k) that conforms to the alternative method of compliance described in 29 CFR 2520.104–48 or 29 CFR 104–49. A SEP is a pension plan that meets certain minimum qualifications regarding eligibility and employer contributions.
5. A Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) that involves SIMPLE IRAs under Code section 408(p).
6. A church pension benefit plan not electing coverage under Code section 410(d).
7. An unfunded dues financed pension benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–27.
8. An individual retirement account or annuity not considered a pension plan under 29 CFR 2510.3–2(d).
9. A "one-participant plan," as defined on page 7. However, certain one-participant plans are required to file the **Form 5500–EZ**, Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan, with the IRS or, if eligible, may file the **Form 5500–SF**, Short Form Annual Return/Report of Employee Benefit Plan, electronically with EFAST2. See page 7.
10. A governmental plan.
11. An unfunded pension benefit plan or an unfunded or insured welfare benefit plan: (a) whose benefits go only to a select group of management or highly compensated employees, and (b) which meets the terms of 29 CFR 2520.104–23 (including the requirement that a registration statement be timely filed with DOL) or 29 CFR 2520.104–24.
12. A welfare benefit plan that covers fewer than 100 participants as of the beginning of the plan year and is unfunded, fully insured, or a combination of insured and unfunded, and does not provide group health benefits. Plans that provide group health benefits, regardless of size or funding method must file the Form 5500 and the Schedule J (Group Health Plan Information) and other schedules as applicable and cannot file the Form 5500–SF. See Form 5500 Annual Return/Report Instructions. For this purpose:

a. An unfunded welfare benefit plan has its benefits paid as needed directly from the general assets of the employer or the employee organization that sponsors the plan.

Note. Plans that are NOT unfunded include those plans that received employee (or former employee) contributions during the plan year and/or used a trust or separately maintained fund (including a Code section 501(c)(9) trust) to hold plan assets or act as a conduit for the transfer of plan assets during the plan year. A welfare benefit plan with employee contributions that is associated with a cafeteria plan under Code section 125 may be treated for annual reporting purposes as an unfunded welfare benefit plan if it meets the requirements of DOL Technical Release 92–01, 57 FR 23272 (June 2, 1992) and 58 FR 45359 (Aug. 27, 1993). The mere receipt of COBRA contributions or other after-tax participant contributions (*e.g.*, retiree contributions) by a cafeteria plan would not by itself affect the availability of the relief provided for cafeteria plans that otherwise meet the requirements of DOL Technical Release 92–01. See 61 FR 41220, 41222–23 (Aug. 7, 1996).

b. A fully insured welfare benefit plan has its benefits provided exclusively through insurance contracts or policies, the premiums of which must be paid directly to the insurance carrier by the employer or employee organization from its general assets or partly from its general assets and partly from contributions by its employees or members (which the employer or employee organization forwards within 3 months of receipt). The insurance contracts or policies discussed above must be issued by an insurance company or similar organization that is qualified to do business in any state.

c. A combination unfunded/insured welfare benefit plan has its benefits provided partially as an unfunded plan and partially as a fully insured plan. An example of such a plan is a welfare benefit plan that provides medical benefits as in "a" above and life insurance benefits as in "b" above. See 29 CFR 2520.104–20.

Note. A voluntary employees' beneficiary association, as used in Code section 501(c)(9) (VEBA), should not be confused with the employer or employee organization that sponsors the plan. See ERISA section 3(4).

13. Plans maintained only to comply with workers' compensation, unemployment compensation, or disability insurance laws.

14. A welfare benefit plan maintained outside the United States primarily for persons substantially all of whom are nonresident aliens.

15. A church welfare benefit plan under ERISA section 3(33).

16. An unfunded dues financed welfare benefit plan that meets the alternative method of compliance provided by 29 CFR 2520.104–26.

17. A welfare benefit plan that participates in a group insurance arrangement that files a return/report on its behalf under 29 CFR 2520.104–43. A group insurance arrangement generally is an arrangement that provides benefits to the employees of two or more unaffiliated employers (not in connection with a multiemployer plan or a collectively bargained multiple-employer plan), fully insures one or more welfare benefit plans of each participating employer, uses a trust (or other entity such as a trade association) as the holder of the insurance contracts, and uses a trust as the conduit for payment of premiums to the insurance company.

18. An apprenticeship or training plan meeting all of the conditions specified in 29 CFR 2520.104–22.

For more information on plans that are exempt from filing an annual return/report, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278). For one-participant plan filers, see the Instructions for Form 5500–EZ or call the IRS Help Line at 1–877–829–5500.

Who May File Form 5500–SF

If your plan is required to file an annual return/report, you may file the Form 5500–SF instead of the Form 5500 only if you meet all of the eligibility conditions listed below.

1. The plan (a) covered fewer than 100 participants at the beginning of the plan year 20**XX**, or (b) under 29 CFR 2520.103–1(d) was eligible to and filed as a small plan for plan year 20XX–1 and did not cover more than 120 participants at the beginning of plan year 20**XX**. (See instructions for Lines 6 and 7, on counting the number of participants.);

2. The plan did not hold any employer securities at any time during the plan year;

3. At all times during the plan year, the plan was 100% invested in certain secure, easy to value assets that meet the definition of "eligible plan assets" (see the instructions for Line 8a), such as mutual fund shares, investment contracts with insurance companies and banks valued at least annually, publicly traded securities held by a registered broker dealer, cash and cash equivalents, and plan loans to participants;

4. The plan is eligible for the waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46 (but not by reason of enhanced bonding), which requirement includes, among others, giving certain disclosures and supporting documents to participants and beneficiaries regarding the plan's investments (see instructions for Line 8b);

5. The plan is not a multiemployer plan; and

6. The plan does not provide group health benefits.

Notes. (1) Employee Stock Ownership Plans (ESOPs) and Direct Filing Entities (DFEs) may not file the Form 5500–SF. (2) One-participant plans and certain foreign plans should follow the *Specific Instructions Only for "One-Participant Plans and Certain Foreign Plans"* in place of the instructions 1–5 above to see if Form 5500–SF may be filed instead of Form 5500–EZ.

What To File

Plans required to file an annual return/report that meet all of the conditions for filing the Form 5500–SF may complete and file the Form 5500–SF in accordance with its instructions. Single-employer defined benefit pension plans using the Form 5500–SF must also file the Schedule SB (Form 5500), Single-Employer Defined Benefit Plan Actuarial Information, and its required attachments. Money purchase plans amortizing a funding waiver using the Form 5500–SF must also file the Schedule MB (Form 5500), Multiemployer Defined Benefit Plan and Certain Money Purchase Plan Actuarial Information, and its required attachments. For information about Schedule SB and Schedule MB, see the **20XX Instructions for Form 5500,** Annual Return/Report of Employee Benefit Plan. One-participant plans see *Specific Instructions Only for "One-Participant Plans and Certain Foreign Plans."*

Eligible Combined Plans. The Pension Protection Act of 2006 (PPA) established rules for a new type of pension plan, an "eligible combined plan," effective for plan years beginning after December 31, 2009. See Code section 414(x) and ERISA section 210(e). An eligible combined plan consists of a defined benefit pension plan and a defined contribution pension plan that includes a qualified cash or deferred arrangement under Code section 401(k), with the assets of the two plans held in a single trust, but clearly identified and allocated between the plans. The eligible combined plan design is available only to employers that employed an average of at least two, but not more than 500 employees, on business days during the calendar year preceding the plan year as of which the eligible combined plan is established and that employs at least two employees on the first day of the plan year that the plan is established. Because an eligible combined plan includes both a defined benefit pension plan and a defined contribution pension plan, the Form 5500–SF filed for the plan must include all the information, schedules, and attachments that would be required for either a defined benefit pension plan (such as a Schedule SB) or a defined contribution pension plan.

When to File

File the 20**XX** Form 5500–SF for plan years that began in 20**XX**. The form, and any required schedules and attachments, must be filed by the last day of the 7th calendar month after the end of the plan year (not to exceed 12 months in length) that began in 20**XX**.

Short Years. For a plan year of less than 12 months (short plan year), file the form and applicable schedules by the last day of the 7th calendar month after the short plan year ends or by the extended due date, if filing under an authorized extension of time. Fill in the short plan year beginning and ending dates in the space provided and check the appropriate box in Part I, Line B, of the Form 5500–SF. For purposes of this return/report, a short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also see the instructions for *Final Return/Report* to determine if "the final return/report" box in Line B should be checked.

Extension of Time To File

Using Form 5558

If filing under an extension of time based on the filing of an IRS Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, check the appropriate box on the Form 5500–SF, Part I, Line C. A one-time extension of time to file the Form 5500–SF (up to 2½ months) may be obtained by filing Form 5558 on or before the normal due date (not including any extensions) of the return/report. [The language on how to file the Form 5558 will be changed if filers will be able, as proposed, to file the Form 5558 through EFAST2]. **You must file the Form 5558 with the Department of Treasury, Internal Revenue Service Center, Ogden, UT 84201–0045**. Approved copies of the Form 5558 will not be returned to the filer. A copy of the completed extension request must be retained with the plan's records.

Using Extension of Time To File Federal Income Tax Return

An automatic extension of time to file Form 5500–SF until the due date of the federal income tax return of the employer will be granted if all of the following conditions are met: (1) the plan year and the employer's tax year are the same; (2) the employer has been granted an extension of time to file its federal income tax return to a date later than the normal due date for filing the Form 5500–SF; and (3) a copy of the application for extension of time to file the federal income tax return is maintained with the filer's records. An extension of time granted by using this automatic extension procedure CANNOT be extended further by filing an IRS Form 5558, nor can it be extended beyond a total of 9 ½ months beyond the close of the plan year.

Notes. (1) If the filing due date falls on a Saturday, Sunday, or Federal holiday, the return/report may be filed on the next day that is not a Saturday, Sunday, or Federal holiday. (2) If the 20**XX** Form 5500 is not available before the plan filing, use the 20**XX**–1 Form 5500 and enter the 20**XX** fiscal year beginning and ending dates on the line provided at the top of the form.

Other Extensions of Time

The IRS, DOL, and PBGC may announce special extensions of time under certain circumstances, such as extensions for Presidentially-declared disasters or for service in, or in support of, the Armed Forces of the United States in a combat zone. See *www.irs.gov, www.efast.dol.gov*, and *www.pbgc.gov/practitioners* for announcements regarding such special extensions. If you are relying on one of these announced special extensions, check the appropriate box on the Form 5500–SF, Part I, line C, and enter a description of the announced authority for the extension.

Delinquent Filer Voluntary Compliance (DFVC) Program

The DFVC Program facilitates voluntary compliance by plan administrators who are delinquent in filing annual return/report forms under Title I of ERISA by permitting administrators to pay reduced civil penalties for voluntarily complying with their DOL annual reporting obligations. If the Form 5500–SF is being filed under the DFVC Program, check the appropriate box on Form 5500–SF, Part I, line C to indicate that the Form 5500–SF is being filed under the DFVC Program. See *www.efast.dol.gov* for additional information.

Plan administrators are reminded that they can use the online calculator available at *www.dol.gov/ebsa/calculator/dfvcpmain.html* to compute the penalties due under the program. Payments under the DFVC Program also may be submitted electronically. For information on how to pay DFVC Program payments online, go to *www.dol.gov/ebsa.*

Change in Plan Year

Generally, only defined benefit pension plans need to get approval for a change in plan year. See Code section 412(d)(1). However, under Rev. Proc. 87–27, 1987–1 C.B. 769, these pension plans may be eligible for automatic approval of a change in plan year.

If a change in plan year for a pension or a welfare benefit plan creates a short plan year, file the form and applicable schedules by the last day of the 7th calendar month after the short plan year ends or by the extended due date, if filing under an authorized extension of time. Fill in the short plan year beginning and ending dates in the space provided in Part I and check the appropriate box in Part I, line B of the Form 5500–SF. For purposes of this return/report, the short plan year ends on the date of the change in accounting period or upon the complete distribution of assets of the plan. Also, see the instructions for *Final Return/Report* to determine if "final return/report" in line B should be checked.

Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL and the IRS, respectively, to assess or impose penalties for not giving complete and accurate information and for not filing complete and accurate statements and returns/reports. Certain penalties are administrative (that is, they may be imposed or assessed in an administrative proceeding by one of the governmental agencies delegated to administer the collection of the Form 5500–SF data). Others require a legal conviction.

Administrative Penalties

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. Generally, whether the penalty is under ERISA or the Code, or both, depends upon the agency for which the information is required to be filed. One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your failure to file properly is for reasonable cause.

1. A penalty of up to $1,100 a day (or higher amount if adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended) for each day a plan administrator fails or refuses to file a complete and accurate annual return/report. See ERISA section 502(c)(2) and 29 CFR 2560.502c–2.
2. A penalty of $25 a day (up to $15,000) for not filing the annual return/report for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e).
3. A penalty of $1,000 for not filing an actuarial statement (Schedule MB (Form 5500) or Schedule SB (Form 5500)) required by the applicable instructions. See Code section 6692.

Other Penalties

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall on conviction be fined not more than $100,000 or imprisoned not more than 10 years, or both. See ERISA section 501.
2. A penalty up to $10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.

How to File—Electronic Filing Requirement

Under the computerized ERISA Filing Acceptance System (EFAST2), you must file your 20XX Form 5500–SF electronically. You may file your 20XX Form 5500–SF online using EFAST2's web-based filing system or you may file through an EFAST2-approved vendor. Detailed information on electronic filing is available at *www.efast.dol.gov*. For telephone assistance, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278). The EFAST2 Help Line is available Monday through Friday from 8:00 a.m. to 8:00 p.m., Eastern Time.

[CAUTION] *Annual returns/reports filed under Title I of ERISA, including those filed using the Form 5500–SF, must be made available by the plan administrators to plan participants and beneficiaries and by the DOL to the public pursuant to ERISA sections 104 and 106. Even though the Form 5500–SF must be filed electronically, the plan administrator must keep a copy of the Form 5500–SF, including schedules and attachments, with all required signatures on file as part of the plan's records, and must make a paper copy available on request to participants, beneficiaries, and the DOL as required by section 104 of ERISA and 29 CFR 2520.103–1. Filers may use electronic media for record maintenance and retention, so long as they meet the applicable requirements.*

Generally, questions on the Form 5500–SF relate to the plan year entered at the top of the first page of the form. Therefore, answer all questions on the 20**XX** Form 5500–SF with respect to the 20**XX** plan year unless otherwise explicitly stated in the instructions or on the form itself.

Your entries must be in the proper format in order for the EFAST2 system to process your filing. For example, if a question requires you to enter a dollar amount, you cannot enter a word. Your software will not let you submit your return/report unless all entries are in the proper format. To reduce the possibility of correspondence and penalties:

- Complete all lines on the Form 5500–SF unless otherwise specified. Also complete and electronically attach, as required, any applicable schedules and attachments.
- Do not enter "N/A" or "Not Applicable" on the Form 5500–SF or Schedules SB (Form 5500) and MB (Form 5500) unless specifically permitted. "Yes" or "No"

questions on the form and schedules cannot be left blank, unless specifically permitted. Answer "Yes" or "No," but not both.

- Use the correct employer identification number (EIN) and plan number (PN) for the plan.

You should check your return/report for errors before signing or submitting it to EFAST2. Your filing software or, if you are using it, the EFAST2 web-based filing system will allow you to check your return/report for errors. If, after reasonable attempts to correct your filing to eliminate any identified problem or problems, you are unable to address them, or you believe that you are receiving the message in error, call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) or contact the service provider you used to help prepare and file your annual return/report.

Once you complete the return/report and finish the electronic signature process, you can electronically submit it to EFAST2. When you electronically submit your return/report, EFAST2 is designed to immediately notify you if your submission was received and whether the return/report is ready to be processed by EFAST2. If EFAST2 does not notify you that your submission was successfully received and is ready to be processed, you will need to take steps to correct the problem or you may be deemed a non-filer subject to penalties from DOL, IRS, and/or PBGC.

Once EFAST2 receives your return/report, the EFAST2 system should be able to provide a filing status within 20 minutes. Check back into the EFAST2 system to determine the filing status of your return/report. The filing status message will include a list of any filing errors or warnings that EFAST2 may have identified in your filing. If EFAST2 did not identify any filing errors or warnings, EFAST2 will show the filing status of your return/report as "Filing_Received." Persons other than the submitter can check whether the filing was received by the system by calling the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278) and using the automated telephone system.

To reduce the possibility of correspondence and penalties from the DOL, IRS, and/or PBGC, you should do the following: (1) Before submitting your return/report to EFAST2, check it for errors, and (2) after you have submitted it to EFAST2, verify that you have received a filing status of "Filing_Received" and attempt to correct and resolve any errors or warnings listed in the status report.

Note. Even after being received by the EFAST2 system, your return/report filing may be subject to further detailed review by DOL, IRS, and/or PBGC, and your filing may be deemed deficient based upon this further review. See *Penalties* on page 5.

The Form 5500–SF, Schedules SB (Form 5500) and MB (Form 5500), and any attachments that are filed under ERISA are open to public inspection, and the contents are public information subject to publication on the Internet.

[CAUTION] *Do not enter social security numbers in response to questions asking for an employer identification number (EIN). Because of privacy concerns, the inclusion of a social security number or any portion thereof on the Form 5500–SF or on a schedule or attachment that is open to public inspection may result in the rejection of the filing. If you discover a filing disclosed on the EFAST2 Web site that contains a social security number, immediately call the EFAST2 Help Line at 1–866–GO–EFAST (1–866–463–3278).*

Do not attach a copy of the annual registration statement identifying separated participants with deferred vested benefits or a previous year's Schedule SSA (Form 5500) to your 20XX Form 5500–SF annual return/report. The annual registration statement must be filed directly with the IRS and cannot be attached to a Form 5500–SF submission with EFAST2.

Employers without an employer identification number (EIN) must apply to the IRS for one as soon as possible. The EBSA does not issue EINs. To apply for an EIN from the IRS:

- Mail or fax Form SS–4, Application for Employer Identification Number, obtained at the IRS Web site at *www.irs.gov.*
- Call 1–800–829–4933 to receive your EIN by telephone.
- Select the Online EIN Application link at *www.irs.gov.*

The EIN is issued immediately once the application information is validated. (The online application process is not yet available for corporations with addresses in foreign countries or Puerto Rico.)

Signature and Date

For purposes of Title I of ERISA, the plan administrator is required to file the Form 5500 or 5500–SF. The plan administrator must electronically sign the Form 5500 or 5500–SF submitted to EFAST2.

[CAUTION] *After submitting your filing, you must check the Filing Status. If the filing status is "Processing Stopped", it is possible your submission was not sent with a valid electronic signature as required, and depending on the error, may be considered not to have been filed. By looking closer at the Filing Status, you can see specific error messages applicable to the transmitted filing and determine whether it was sent with a valid electronic signature and what other errors may need to be corrected.*

Note. If the plan administrator is an entity, the electronic signature must be in the name of a person authorized to sign on behalf of the plan administrator.

If the plan administrator does not sign a filing, the filing status will indicate that there is an error with your filing, and your filing will be subject to further review, correspondence, rejection, and civil penalties.

Authorized Service Provider Signatures. If the plan administrator elects to have a service provider who manages the filing process for the plan get EFAST2 signing credentials and submit the electronic Form 5500–SF for the plan:

(1) the service provider must receive specific written authorization from the plan administrator to submit the plan's electronic filing;

(2) the plan administrator must manually sign a paper copy of the electronically completed Form 5500–SF, and the service provider must include a PDF copy of the entire three-page Form 5500–SF, excluding any attachments and associated schedules, submitted to EFAST2;

(3) the service provider must communicate to the plan administrator any inquiries received from EFAST2, DOL, IRS or PBGC regarding the filing;

(4) the service provider must communicate to the plan administrator that, by electing to use this option, the image of the plan administrator's manual signature will be included with the rest of the return/report posted by the Labor Department on the Internet for public disclosure; and

(5) the plan administrator must keep the manually signed copy of the Form 5500–SF, with all required schedules, as part of the plan's records. For more information on the electronic signature option, see EFAST2 All-Electronic Filing System FAQs at *www.dol.gov/ebsa/faqs/faq-EFAST2.html.*

[CAUTION] *Service providers should consider implications of IRS tax return preparer rules.*

Note. The Code permits either the plan sponsor/employer or the administrator to sign the filing. Therefore, in the case of a Form 5500–SF filed for a "one-participant plan" not subject to Title I of ERISA that is filing a Form 5500–SF with EFAST2 in lieu of filing a Form 5500–EZ on paper with the IRS (see *Specific Instructions Only for "One-Participant Plans and certain foreign plans"*), either may sign. However, any other Form 5500–SF that is not electronically signed by the plan administrator will be subject to rejection and civil penalties under Title I of ERISA.

The Form 5500–SF annual return/report must be filed electronically and signed. To obtain an electronic signature, go to *www.efast.dol.gov* and register in EFAST2 as a signer. You will be provided with a UserID and a PIN. Both the UserID and PIN are needed to sign the Form 5500–SF. The plan administrator must keep a copy of the Form 5500–SF, including schedules and attachments, with all required signatures on file as part of the plan's records. See 29 CFR 2520.103–1. Electronic signatures on annual returns/reports filed under EFAST2 are governed by the applicable statutory and regulatory requirements.

Trustee/Custodian Signature

The plan trustee or custodian may electronically sign this schedule or attach to the Form 5500 an electronic reproduction of the Schedule H signed by the plan's trustee. This electronic reproduction must be labeled ***"Trustee Signature"*** and must be included as a Portable Document Format (PDF) attachment or any alternative electronic attachment allowable under EFAST2 if this is not electronically signed. If there is more than one trustee or custodian, the trustee or custodian authorized by the others may sign. If the plan trustee or custodian is an entity, the signature must be the name of a person authorized to sign on behalf of the plan trustee or custodian.

Note. Trust information reported in this Form is for purpose of satisfying the requirements under Code section 6033(a) for an annual information return from every section 401(a) organization exempt from tax under section 501(a). The statute of limitations under Code section 6501(a) for any trust described in section 401(a), which is exempt from tax under section 501(a), will not start to run until you timely file with the appropriate trust information on this Form.

Preparer Information

Enter the "Preparer's name (including firm's name, if applicable), address, and telephone number" at the bottom of the first page of Form 5500–SF. A preparer is any person who prepares an annual return/report for compensation, or who employs one or more persons to prepare for compensation. If the person who prepared the annual return/report is not the employer named in line 2a or the plan administrator named in line 3a, you must name the person on this line. If there are several people who prepare Form 5500–SF and applicable schedules, please name the person who is primarily responsible for the preparation of the annual return/report.

Note. You must complete preparer information if you are required to file at least 250 returns of any type with the IRS during the calendar year. However, if you are a small filer (files fewer than 250 returns of any type with the IRS during the calendar year), and you do not enter preparer information on the Form 5500, then you must file the paper Form 5500–SUP with the IRS. See the Treasury regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media" (See 79 FR 58256 at *http://federalregister.gov/a/2014-23161*) and Instructions for Form 5500–SUP for more information.

Specific Instructions Only for "One-Participant Plans and Certain Foreign Plans"

A "one-participant plan" is: (1) A pension benefit plan that covers only an individual or an individual and his or her spouse who wholly own a trade or business, whether incorporated or unincorporated; or (2) a pension benefit plan for a partnership that covers only the partners or the partners and the partners' spouses. Thus, a "one-participant plan" can cover more than one participant. On the other hand, merely covering only one participant does not make you eligible to file as a "one-participant plan" unless you are one of the types of plans described above.

A foreign plan is maintained outside the United States primarily for nonresident aliens, if (1) a plan is maintained by a domestic employer; or (2) a plan is maintained by a foreign employer with income derived from sources within the United States (including foreign subsidiaries of domestic employers) if contributions to the plan are deducted on its U.S. income tax return.

The Form 5500–EZ generally is used by one-participant plans and certain foreign plans that are not subject to the requirements of section 104(a) of ERISA to satisfy certain annual reporting and filing obligations imposed by the Code. One-participant plans and certain foreign plans may file the Form 5500–SF electronically in place of a Form 5500–EZ (on paper) to satisfy the filing obligations under the Code. One-participant plans and foreign plans that file the Form 5500–SF electronically complete only certain questions on the Form 5500–SF. These are the questions that would be completed if the filer filed Form 5500–EZ on paper. For more information on filing with the IRS, go to *www.irs.gov* or call 1–877–829–5500.

Notes. (1) A Form 5500–SF may be filed for one-participant plans and certain foreign plans that are either defined contribution pension plans (which include profit-sharing and money purchase pension plans, but not an ESOP or stock bonus plan) or defined benefit pension plans. (2) The filer of a one-participant plan or a foreign plan that is required by the Code or regulations to file at least 250 returns of any type, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns, with the IRS during the calendar year, must use the Form 5500–SF to file the information required on the Form 5500–EZ, but will not be required to attach to the filing a Schedules SB or MB. For more information, see IRS regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media" (See T.D. 9695, 79 FR 58256 at *http://federalregister.gov/a/2014-23161*). (3) Information filed on Form 5500–EZ is required to be made available to the public. Form 5500–SF is open to public inspection and the contents are public information subject to publication on the Internet. However, the information on Form 5500–SF will not be subject to publication on the internet for a "one-participant plan or a foreign plan" that is electronically filed using a Form 5500–SF with EFAST2 in lieu of filing a Form 5500–EZ on paper with the IRS.

Eligible one-participant plans and certain foreign plans need complete only the following questions on the Form 5500–SF:

1. Part I, Lines A, B, and C;
2. Part II, Lines 1a–5b; 5d(1), 5d(2), and 5(e);
3. Part III, Lines 7a–c, and 8a;
4. Part IV, Line 9a;
5. Part V, Lines 10g; and 10l
6. Part VI, Lines 11–12e.
7. Part VIII, Lines 14a–14d; and
8. Part IX, Lines 18 a, b, c, d, Line 19, and Line 20.

Note. For Lines 7a through 7c, an eligible one-participant plan or certain foreign plan need complete only for total plan assets, total plan liabilities, and net plan assets for beginning of year and end of year, and is not required to complete Line 7a(1) through 7a(8).

Schedule MB (Form 5500). If a money purchase defined contribution pension plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, complete Lines 3, 9, and 10 of Schedule MB (Form 5500). See the Instructions for Schedule MB in the Instructions for Form 5500 Annual Return/Report. One-participant plans and foreign plans, however, do not attach Schedule MB to the Form 5500–SF. Instead, these plans must keep the completed Schedule MB in accordance with the applicable records retention requirements.

Schedule SB (Form 5500). One-participant plans and foreign plans do not attach Schedule SB (Form 5500) to the Form 5500–SF. Instead, these plans must keep the completed Schedule SB that is signed by the plan actuary in accordance with the applicable records retention requirements. Actuaries of one-participant plans and foreign plans that are defined benefit pension plans subject to the minimum funding standards for this plan year, must complete Schedule SB (Form 5500) and forward the completed and signed Schedule SB to the plan administrator no later than the filing due date. See the Instructions for Schedule SB in the Instructions for Form 5500.

Filing Form 5500–EZ with the IRS. If you are filing a paper form, you must file the Form 5500–EZ with the IRS using the following address: Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201–0027. You may order the paper Form 5500–EZ and its instructions by visiting the IRS Web site at *www.irs.gov/formspubs/*.

Filing an amendment. If you are filing an amendment for a "one-participant plan" or a "foreign plan" that filed a Form 5500–SF electronically, you may submit the amendment either electronically using the Form 5500–SF with EFAST2 or on paper using the Form 5500–EZ with the IRS. If you are filing an amendment for a "one-participant plan" that previously filed on a paper Form 5500–EZ, you must submit the amendment using the paper Form 5500–EZ with the IRS. However, if you are filing an amendment for a one-participant plan or a foreign plan that is required by the Treasury regulations (See T.D. 9695, 79 FR 58256 at *http://federalregister.gov/a/2014-23161* to file electronically using the Form 5500–SF, you must submit the amendment electronically using the Form 5500–SF with EFAST2.

Specific Line-by-Line Instructions (Form 5500–SF)

Part I—Annual Report Identification Information

File the 20XX Form 5500–SF annual report for a plan year that began in 20**XX**. Enter the beginning and ending dates in Part I. The 20 **XX** Form 5500–SF annual report must be filed electronically.

Check only one of the Line A box choices.

Line A(1)—Box for Single-Employer Plan. Check this box if the Form 5500–SF is filed for a single-employer plan. A single-employer plan for purposes of the Form 5500–SF is an employee benefit plan maintained by one employer or one employee organization.

Note. Do not check this box even if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m). Check Box A(3).

Line A(2)—Box for Multiple-Employer Plan. Check this box if the Form 5500–SF is being filed for a multiple-employer plan. A multiple-employer plan is a plan that is maintained by more than one employer and is not the type of plan described in A(3). For purposes of the Form 5500–SF, a multiple-employer plan is a plan that is maintained by more than one employer and is not a single-employer plan or a multiemployer plan. Multiple-employer plans can be collectively bargained and collectively funded, but if covered by PBGC termination insurance, they must have properly elected before September 27, 1981, not to be treated as a multiemployer plan under Code section 414(f)(5) or ERISA sections 3(37)(E) and 4001(a)(3), and have not revoked that election or made an election to be treated as a multiemployer plan under Code section 414(f)(6) or ERISA section 3(37)(G). Participating employers do not file individually for multiple-employer plans.

Note. Do not check this box if all of the employers maintaining the plan are members of the same controlled group or affiliated service group under Code sections 414(b), (c), or (m).

Except as provided below, multiple-employer pension plans required to file a Form 5500–SF must include an attachment using the format below that (1) lists each participating employer in the plan during the plan year, identified by name and employer identification number (EIN), and (2) includes a good faith estimate of each employer's percentage of the total contributions (including employer and participant contributions) made by all participating employers during the year. Any employer who was obligated to make contributions to the plan for the plan year, made contributions to the plan for the plan year, or whose employees were covered under the plan is a "participating employer" for this purpose. If a participating employer made no contributions, enter "-0-" in element (c).

The attachment must be properly identified at the top with the label "Multiple-employer Plan Participating Employer Information," and the name of the plan, EIN, and plan number (PN) as found on the plan's Form 5500–SF.

Complete as many entries as needed to report the required information for all participating employers.

Multiple-Employer Plan Participating Employer Information

(Insert Name of Plan, and EIN/PN as shown on the Form 5500–SF)		
(a) Name of participating employer	(b) EIN	(c) Percent of Total Contributions

[CAUTION]*Multiemployer plans cannot use the Form 5500–SF to satisfy their annual reporting obligations. They must file the Form 5500. For these purposes, a plan is a multiemployer plan if: (a) More than one employer is required to contribute; (b) the plan is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer; (c) an election under Code section 414(f)(5) and ERISA section 3(37)(E) has not been made; and (d) the plan meets any other applicable conditions of 29 CFR 2510.3–37. A plan that made a proper election under ERISA section 3(37)(G) and Code section 414(f)(6) on or before Aug. 17, 2007, is also a multiemployer plan.*

Line A(3)—Box for Controlled Group. Check this box for a "controlled group" of corporations that is filing a single Form 5500–SF for reporting purposes. A "controlled group" is a controlled group of corporations under Code section 414(b), a group of trades or businesses under common control under Code section 414(c), or an affiliated service group under Code section 414(m).

Plans sponsored by controlled groups required to file a Form 5500–SF must include an attachment using the format below that (1) lists each controlled group member in the plan during the plan year, identified by name and employer identification number (EIN), and (2) includes a good faith estimate of each employer's percentage of the total contributions (including employer and participant contributions) made by all members during the year. Any employer who was obligated to make contributions to the plan for the plan year, made contributions to the plan for the plan year, or whose employees were covered under the plan is a "controlled group member" for this purpose. If a controlled group member made no contributions, enter "-0-" in element (c).

"Controlled Group Plan Member Information" Attachment. If you checked box A(3) for "Controlled Group Plan," you must complete the "Controlled Group Member Information" attachment. Enter the name of the plan, EIN, and plan number (PN) as found on the plan's Form 5500–SF. Complete as many entries as needed to report the required information for all participating employers.

Controlled Group Member Information

(Heading for this chart must include Insert Name of Plan, and EIN/PN as shown on the Form 5500–SF)(Complete elements (a), (b), and (c) to provide the name, EIN, and percent of total contributions of each controlled group member.)		
(a) Name of controlled group member	(b) EIN	(c) Percent of Total Contributions

Line A(4)—Box for One-Participant Plan. Check this box if the Form 5500–SF is being filed for a plan that is a "one-participant plan" (see page 7). Check the *one-participant plan* box only for those plans that are submitting the Form 5500–SF in place of a Form 5500–EZ (on paper) to satisfy the annual return/report filing obligations under the Code. Plans checking the box for *one-participant plan* should not check either the box for *single-employer plan* or the box for *multiple-employer plan*. See *Specific Instructions Only for "One-Participant Plans and Certain Foreign Plans."*

Line A(5)—Box for Foreign Plans. Check this box if the Form 5500–SF is being filed for a plan that is a "foreign plan"(see page **XX**). Check the *foreign plan* box only for those plans that are submitting the Form 5500–SF in place of a Form 5500–EZ (on paper) to satisfy the annual return/report filing obligations under the Code. Plans checking the box for *foreign plan* should not check either the box for *single-employer plan* or the box for *multiple-employer plan*. See *Specific Instructions Only for "One-Participant Plans and Certain Foreign Plans."*

Line B(1)—Box for First Return/Report. Check this box if an annual return/report has not been previously filed for this plan. For the purpose of completing this box, the Form 5500–EZ is not considered an annual return/report.

Line B(2)—Box for Final Return/Report. Check this box if this is the final report for the plan. Only check this box if all assets under the plan (including insurance/annuity contracts) have been distributed to the participants and beneficiaries or legally transferred to the control of another plan, and when all liabilities for which benefits may be paid under a welfare benefit plan have been satisfied. Do not mark the *final return/report* box if you are reporting participants and/or assets at the end of the plan year. If a trustee is appointed for a terminated defined benefit pension plan pursuant to ERISA section 4042, the last plan year for which a return/report must be filed is the year in which the trustee is appointed. See Box B(5) for the simplified filing requirements for PBGC-trusteed plans.

Examples:

Mergers/Consolidations. A final return/report should be filed for the plan year (12 months or less) that ends when all plan assets were legally transferred to the control of another plan.

Pension and Welfare Plans That Terminated Without Distributing All Assets. If the plan was terminated but all plan assets were not distributed, a return/report must be filed for each year the plan has assets. The return/report must be filed by the plan administrator, if designated, or by the person or persons who actually control the plan's assets/property.

Welfare Plans Still Liable To Pay Benefits. A welfare plan cannot file a final return/report if the plan is still liable to pay benefits for claims that were incurred prior to the termination date, but not yet paid. See 29 CFR 2520.104b–2(g)(2)(ii).

Line B(3)—Box for Amended Return/Report. Check this box if you have already filed for the 20XX plan year and are now filing an amended return/report to correct errors and/or omissions on the previously filed return/report.

[TIP] *Check the Line B box for an "amended return/report" if you filed a previous 20***XX** *annual return/report that was given a "Filing_Received," "Filing_Error," or "Filing_Stopped" status by EFAST2. Do not check the Line B box for an "amended return/report" if your previous submission attempts were not successfully received by EFAST2 because of problems with the transmission of your return/report. For more information, go to the EFAST2 Web site at www.efast.dol.gov or call the EFAST2 Help line at 1–866–GO–EFAST (1–866–463–3278).*

If you need to file an amended return/report to correct errors and/or omissions in a previously filed annual return/report for the 20XX plan year AND you are eligible to file the Form 5500–SF, you may use the Form 5500–SF even if the original filing was a Form 5500. If you filed a Form 5500–SF, but determine that you were not eligible to file the Form 5500–SF, you must use the Form 5500 or Form 5500–EZ to amend your return/report.

Line B(4)—Box for Short Plan Year Return/Report. Check this box if this Form 5500–SF is being filed for a plan year period of less than 12 months. Provide the dates in Part I, Plan Year Beginning and Ending.

Line B(5)—Box for Plan Trusteed by PBGC. Plans that, as of the due date of this return, have been trusteed by PBGC under section 4041(c) or 4042 of ERISA, must check this box and enter the date of trusteeship in the space provided. Plans that check this box must complete all of Part I, Lines 1, 2, 3, 5 of Part II, and Lines 11a(3) and 11a(4) of Part IV.

Line C—Box for Extensions and DFVC Program. Check the appropriate box here if:

1. You filed for an extension of time to file this form with the IRS using Form 5558, Application for Extension of Time To File Certain Employee Plan Returns, and maintain a copy of the Form 5558 with the filer's records;
2. You are filing using the automatic extension of time to file the Form 5500–SF return/report until the due date of the federal income tax return of the employer and maintain a copy of the employer's extension of time to file the income tax return with the plan's records;
3. You are filing using a special extension of time to file the Form 5500–SF annual return/report that has been announced by the IRS, DOL, or PBGC. If you checked that you are using a special extension of time, enter a description of the extension of time in the space provided.; or
4. You are filing under the DFVC Program.

Part II—Basic Plan Information

Line 1a. Enter the formal name of the plan or enough information to identify the plan. Abbreviate if necessary. If an annual return/report has previously been filed on behalf of the plan, regardless of the type of Form that was filed (Form 5500, Form 5500–EZ, or Form 5500–SF), use the same name or abbreviations that were used on the prior filings. Once you use an abbreviation, continue to use it for that plan on all future annual return/report filings with the IRS, DOL, and PBGC. Do not use the same name or abbreviation for any other plan, even if the first plan is terminated.

Line 1b. Enter the three-digit plan or entity number (PN) that the employer or plan administrator assigned to the plan. This three-digit number, in conjunction with the employer identification number (EIN) entered on Line 2b, is used by the IRS, DOL, and PBGC as a unique 12-digit number to identify the plan.

Start at 001 for plans providing pension benefits. Start at 501 for welfare plans. Do not use 888 or 999.

Once you use a plan number, continue to use it for that plan on all future filings with the IRS, DOL, and PBGC. Failure to use the same three-digit plan/DFE number may result in correspondence from DOL or IRS. Do not use this unique three-digit number for any other plan, even if the first plan is terminated.

You should assign a plan number (PN) as described below for each Form 5500 (and Form 5500–SF) with the same EIN of plan or DFE sponsor entered into Line 2b

Pension benefit plans	001 to the first plan. Consecutively number other plans providing pension benefits with the same plan sponsor as 002, 003 . . .
Welfare benefit plans	501 to the first plan or GIA. Consecutively number others as 502, 503 . . .

Exception. If Part II, elements of Line 11a are completed and 333 (or a higher number in a sequence beginning with 333) was previously assigned to the plan, that number may be entered on Line 1b.

Line 1c. Enter the date the plan first became effective.

Line 2a. Limit your response to the information required in each row as specified below:

1. Enter the plan sponsor's (employer, if for a single-employer plan) name, current postal address (only use a P.O. Box number if the Post Office does not deliver mail to the employer's street address), foreign routing code where applicable, and "D/B/A" (doing business as) or trade name of the employer if different from the employer's name.
2. Enter any "in care of" (C/O) name.
3. Enter the current street address. A post office box number may be entered, in addition to the street address, if the Post Office does not deliver mail to the sponsor's street address.
4. Enter the name of the city.
5. Enter the two-character abbreviation of the U.S. state or possession and zip code.
6. Enter the foreign routing code, if applicable. Leave U.S. state and zip code blank if entering a foreign routing code and country name.
7. Enter the foreign country, if applicable. Do not abbreviate the country name after "Enter foreign country."
8. Enter the D/B/A (the doing business as) or trade name of the sponsor if different from the plan sponsor's name.
9. Enter any second address. Use only a street address here, not a P.O. box.

Notes. (1) In the case of a multiple-employer plan, file only one annual return/report for the plan. If an association or other entity is not the sponsor, enter the name of a participating employer as sponsor. For a plan of a controlled group of corporations, the name of one of the sponsoring members should be entered. In either case, the same name must be used in all subsequent filings of the Form 5500 return/report or Form 5500–SF for the multiple-employer plan or controlled group. (See instructions for Line 5 concerning change in sponsorship). (2) You can also use the IRS Form 8822–B to notify the IRS if the address provided here is a change in your business mailing address or your business location.

Line 2b. Enter the employer's nine-digit employer identification number (EIN).

[CAUTION] *Do not use a social security number in lieu of an EIN. The Form 5500–SF is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this line may result in the rejection of the filing.*

Employers without an EIN number must apply to the IRS for one as soon as possible. The EBSA does not issue EINs. To apply for an EIN from the IRS:

- Mail or fax Form SS–4, Application for Employer Identification Number, obtained at the IRS Web site at *www.irs.gov.*
- Call 1–800–829–4933 to receive your EIN by telephone.
- Select the Online EIN Application link at *www.irs.gov.*

The EIN is issued immediately once the application information is validated. (The online application process is not yet available for corporations with addresses in foreign countries).

A multiple-employer plan or plan of a controlled group of corporations should use the EIN number of the sponsor identified in Line 2b(1). The EIN must be used in all subsequent filings of the Form 5500–SF (or any subsequent Form 5500 or Form 5500–EZ in a year where the plan is not eligible to file the Form 5500–SF) for these plans. (See instructions to Line 4 concerning change in EIN).

Note. EINs for funds (trusts or custodial accounts) associated with plans are generally not required to be furnished on the Form 5500–SF. The IRS, however, will issue EINs for such funds for other reporting purposes. EINs may be obtained as explained above. Plan sponsors should use the trust EIN described above when opening a bank account or conducting other transactions for a trust that requires an EIN.

Line 2b(2). If available, enter the global legal entity identification number (LEI). With respect to any company, the LEI is the "legal entity identifier" assigned by or on behalf of an internationally recognized standards setting body and required for reporting purposes by the U.S. Department of the Treasury's Office of Financial Research or a financial regulator. In the case of a financial institution, if a "legal entity identifier" has not been assigned, then provide the RSSD ID assigned by the National Information Center of the Board of Governors of the Federal Reserve System, if any.

Line 2c. Enter the telephone number for the plan sponsor. Use numbers only, including area code, and do not include any special characters.

Line 2d. Enter the six-digit business code that best describes the nature of the plan sponsor's business from the list of business codes on pages **XX–XY**. If more than one employer or employee organization is involved, enter the business code for the main business activity of the employers and/or employee organizations.

Line 3a. Limit your response to the information required in each row as specified below:

1. Enter the name and address of the plan administrator unless the administrator is the sponsor identified in Line 2. If both the plan administrator name and address are the same as the plan sponsor name and address, check the "Same as Plan Sponsor" box and disregard items 2 through 6 below.
2. Enter any "in care of" (C/O) name.
3. Enter the current street address. A post office box number may be entered, in addition to the street address, if the Post Office does not deliver mail to the administrator's street address.
4. Enter the name of the city.
5. Enter the two-character abbreviation of the U.S. state or possession and zip code.
6. Enter the foreign routing code and foreign country, if applicable. Leave U.S. state and zip code blank if entering foreign routing code and country information.

Plan administrator for this purpose means:

- The person or group of persons specified as the administrator by the instrument under which the plan is operated;
- The plan sponsor/employer if an administrator is not so designated; or
- Any other person prescribed by applicable regulations if an administrator is not designated and a plan sponsor cannot be identified.

Line 3b. Enter the plan administrator's nine-digit EIN. A plan administrator must have an EIN for Form 5500–SF reporting. If the plan administrator does not have an EIN, it must apply to the IRS for one as explained in the instructions for Line 2b. One EIN should be entered for a group of individuals who are, collectively, the plan administrator.

Note. Employees of the plan sponsor who perform administrative functions for the plan are generally not the plan administrator unless specifically designated in the plan document. If an employee of the plan sponsor is designated as the plan administrator, that employee must obtain an EIN.

Do not use a social security number in lieu of an EIN. The Form 5500–SF and its schedules and attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Form 5500–SF or any of it schedules or attachments may result in the rejection of the filing.

Line 3c. Enter the telephone number for the plan administrator.

Line 4. Enter the name and identifying information of the "named fiduciary." A plan must have at least one fiduciary (a person or entity) named in the written plan, or through a process described in the plan, as having control over the plan's operation. The named fiduciary can be identified by office or by name. For some plans, it may be an administrative committee or a company's board of directors. If the named fiduciary is an entity such as a committee or board, include the name and contact information for a specific individual, as well as the name of the entity. If you are unable to determine who is the "named fiduciary," enter the name and identifying information of the person who appointed the plan trustee.

Line 5. If the plan sponsor's name, EIN, or LEI have changed since the last annual return/report was filed for this plan, enter the plan sponsor's name, EIN, LEI, and the plan number as it appeared on the last annual return/report filed.

[CAUTION] *Failure to indicate on Line 5 that a plan or plan sponsor was previously identified by a different name, employer identification number (EIN), LEI, or plan number could result in correspondence from the DOL and the IRS.*

Line 5a. Enter the plan sponsor's name as it appeared on the last return/report filed.

Line 5b(1). Enter the plan sponsor's EIN as it appeared on the last return/report filed.

Line 5b(2). Enter the plan sponsor's LEI (if available) as it appeared on the last return/report filed.

Line 5c. Enter the plan sponsor's plan number as it appeared on the last return/report filed.

Line 6. Enter in element (a) the total number of participants at the beginning of the plan year. Enter in element (b) the total number of participants at the end of the plan year.

Line 7. Enter in element (a) the total number of participants with account balances as of the end of the plan year. Welfare benefit plans and defined benefit pension plans do not complete element (c). Enter in element (a)(1) the total number of active participants at the beginning of the plan year. Enter in element (a)(2) the total number of active participants at the end of the plan year.

The description of "participant" in the following instructions is only for purposes of these lines.

An individual becomes a participant covered under an employee welfare benefit plan on the earliest of:

- The date designated by the plan as the date on which the individual begins participation in the plan;
- The date on which the individual becomes eligible under the plan for a benefit subject only to occurrence of the contingency for which the benefit is provided; or
- The date on which the individual makes a contribution to the plan, whether voluntary or mandatory.

See 29 CFR 2510.3–3(d)(1). Covered dependents are not counted as participants. A child who is an "alternate recipient" entitled to health benefits under a qualified medical child support order (QMCSO) should not be counted as a participant for Line 6. An individual is not a participant covered under an employee welfare plan on the earliest date on which the individual (a) is ineligible to receive any benefit under the plan even if the contingency for which such benefit is provided should occur, and (b) is not designated by the plan as a participant. See 29 CFR 2510.3–3(d)(2).

[TIP] *Before counting the number of participants, especially in a welfare benefit plan, it is important to determine whether the plan sponsor has established one or more plans for Form 5500/Form 5500–SF reporting purposes. As a matter of plan design, plan sponsors can offer benefits through various structures or combinations.*

The fact that you have separate insurance policies for each different welfare benefit does not necessarily mean that you have separate plans. Some plan sponsors use a "wrap" document to incorporate various benefits and insurance policies into one comprehensive plan. In addition, whether a benefit arrangement is deemed to be a single plan may be different for purposes other than Form 5500/Form 5500–SF reporting. For example, special rules may apply for purposes of Internal Revenue Code compliance. If you need help determining whether you have a single welfare benefit plan for Form 5500/Form 5500–SF reporting purposes, you should consult a qualified benefits consultant or legal counsel.

[CAUTION] *Plans that provide health benefits cannot file the Form 5500–SF regardless of size and must file the Form 5500.*

For pension benefit plans, "alternate payees" entitled to benefits under a qualified domestic relations order (QDRO) are not to be counted as participants for this line.

For pension benefit plans, "participant" for this line means any individual who is included in one of the categories below.

1. Active participants (*i.e.,* any individuals who are currently in employment covered by

the plan and who are earning or retaining credited service under the plan). This includes any individuals who are eligible to elect to have the employer make payments under a Code section 401(k) qualified cash or deferred arrangement. Active participants also include any nonvested individuals who are earning or retaining credited service under the plan. This does not include (a) nonvested former employees who have incurred the break in service period specified in the plan or (b) former employees who have received a "cash-out" distribution or deemed distribution of their entire nonforfeitable accrued benefit.

2. Retired or separated participants receiving benefits (*i.e.*, individuals who are retired or separated from employment covered by the plan and who are receiving benefits under the plan). This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

3. Other retired or separated participants entitled to future benefits (*i.e.*, any individuals who are retired or separated from employment covered by the plan and who are entitled to begin receiving benefits under the plan in the future). This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the individual is entitled under the plan.

4. Deceased individuals who had one or more beneficiaries who are receiving or are entitled to receive benefits under the plan. This does not include any individual to whom an insurance company has made an irrevocable commitment to pay all the benefits to which the beneficiaries of that individual are entitled under the plan.

Line 7g. Enter in element **(1)** the number of participants who have an account balances at the beginning of the year. Enter in element **(2)** the number of participants included on Line 7f (total participants at the end of the plan year) who have account balances at the end of the plan year. For example, for a Code section 401(k) plan the number entered on Line 7g should be the number of participants counted on Line 7f who have made a contribution, or for whom a contribution has been made, to the plan for this plan year or any prior plan year. Enter in element **(3)** the number of participants that made contributions to the plan (regardless of whether the employer made contributions) during the plan year. Both defined contribution pension plans and welfare plans complete element **(3)**. Enter in element **(4)** the number of participants that terminated employment during the plan year that had their entire account balance distributed as of the end of the plan year. Only defined contribution pension plans complete element **(4)**.

Defined contribution plans must complete all of Lines 7g(1)–(4). Welfare plans must complete Line 7g(3) and should leave Line 7g(1), (2), and (4) blank. Defined benefit pension plans should skip Line 7g and should leave it blank.

Line 7h. Include any individual who terminated employment during this plan year, whether or not he or she (a) incurred a break in service, (b) received an irrevocable commitment from an insurance company to pay all the benefits to which he or she is entitled under the plan, and/or (c) received a cash distribution or deemed cash distribution of his or her nonforfeitable accrued benefit.

Part III—Form 5500–SF Eligibility Information.

If your plan is required to file an annual return/report, you may file the Form 5500–SF instead of the Form 5500 only if you meet all of the eligibility conditions listed below.

1. The plan (a) covered fewer than 100 participants at the beginning of the plan year 20**XX**, or (b) under 29 CFR 2520.103–1(d) was eligible to and filed as a small plan for plan year 20**XX–1**and covered 120 or fewer participants at the beginning of plan year 20**XX** (see instructions; defined benefit pension plans, welfare plans, and defined contribution pension plans that check the "first plan year" box use the number on Line 6; defined contribution pension plans use the number on Line 7g(1);

2. The plan did not hold any employer securities at any time during the plan year;

3. At all times during the plan year, the plan was 100% invested in certain secure, easy to value assets such as mutual fund shares, investment contracts with insurance companies and banks valued at least annually and that are not invested in "hard-to-value" assets, publicly traded securities held by a registered broker dealer, cash and cash equivalents, and plan loans to participants that meet the definition of "eligible plan assets" (see the instructions for Line 8a);

4. The plan is eligible for the waiver of the annual examination and report of an independent qualified public accountant (IQPA) under 29 CFR 2520.104–46 (but not by reason of enhanced bonding), which requirement includes, among others, giving certain disclosures and supporting documents to participants and beneficiaries regarding the plan's investments (see instructions for Line 8b);

5. The plan is not a multiemployer plan; and

6. The plan did not provide group health benefits.

Special conditions for filing the Form 5500–SF apply to "one-participant plans." See *Specific Instructions for "One-Participant Plans"* on page 7.

Line 8a. Eligible Plan Assets. To be eligible to file the Form 5500–SF, all of the plan's assets must be "eligible plan assets." Answer Line 8a "Yes" or "No." Do not leave this question blank. If the answer to Line 8a is "No" you CANNOT file the Form 5500–SF and must file the Form 5500. See discussion under *Who May File Form 5500–SF.*

For the purposes of this line, "eligible plan assets" are assets that have a readily determinable fair market value for purposes of this annual reporting requirement as described in 29 CFR 2520.103–1(c)(2)(ii)(C), are not employer securities, and are held or issued by one of the following regulated financial institutions: a bank or similar financial institution as defined in 29 CFR 2550.408b–4(c) (for example, banks, trust companies, savings and loan associations, domestic building and loan associations, and credit unions); an insurance company qualified to do business under the laws of a state; organizations registered as broker-dealers under the Securities Exchange Act of 1934; investment companies registered under the Investment Company Act of 1940; or any other organization authorized to act as a trustee for individual retirement accounts under Code section 408. Examples of assets that would qualify as eligible plan assets for this annual reporting purpose are mutual fund shares, investment contracts with insurance companies or banks that provide the plan with valuation information at least annually, publicly traded stock held by a registered broker dealer, cash and cash equivalents held by a bank. Participant loans meeting the requirements of ERISA section 408(b)(1) are also "eligible plan assets" for this purpose whether or not they have been deemed distributed. "Eligible plan assets" do not include leveraged investments. Small plans that have such investments must file the Form 5500.

Line 8b. In addition to all of the plan's assets being eligible plan assets as defined in Line 8a, to be eligible to file the Form 5500–SF the plan also must meet the conditions for the exemption from the requirement to be audited annually by an independent qualified public accountant (IQPA) in 29 CFR 2520.104–46 and covered fewer than 100 participants as of the beginning of 20**XX** or, under 29 CFR 2520.103–1(d), was eligible to and filed as a small plan for plan year 20**XX–1** and did not cover more than 120 participants at the beginning of plan year 20**XX**. For these purposes, defined benefit pension plans, welfare plans, and defined contribution pension plans that check the "first plan" year box use the participant count on Line 6, and defined contribution pension plans can use the participant count on Line 7g(1).

To be able to file the Form 5500–SF, the filer must meet the following three requirements for the audit waiver under 29 CFR 2520.104–46:

(1) as the last day of the preceding plan year, at least 95% of a small pension plan's assets were "qualifying plan assets;"

(2) the plan includes the required audit waiver disclosure in the Summary Annual Report (SAR) furnished to participants and beneficiaries, in accordance with 29 CFR 2520.104b–10. For defined benefit pension plans that are required pursuant to section 101(f) of ERISA to furnish an Annual Funding Notice (AFN), the administrator must instead either provide the information to participants and beneficiaries with the AFN or as a stand-alone notification at the time an SAR would have been due and in accordance with the rules for furnishing an SAR, although such plans do not have to furnish an SAR; and

(3) in response to a request from any participant or beneficiary, the plan administrator must furnish without charge copies of statements from the regulated financial institutions holding or issuing the plan's "qualifying plan assets."

[CAUTION] *In order to be eligible to file the Form 5500–SF, a small pension plan* *must meet the audit waiver conditions by virtue of having 95% or more of its assets as "qualifying plan assets" in accordance with 29 CFR 2520.104–46(b)(1)(i)(A)(1). If the small plan satisfies the conditions of the audit waiver by virtue of having an enhanced fidelity bond under 29 CFR 2520.104–46(b)(1)(i)(A)(2), the plan does not satisfy the conditions for filing the Form 5500–SF and must file the Form 5500, along with the appropriate schedules and attachments. Also, although many "qualifying plan assets" for audit waiver purposes will also be "eligible plan assets" as described in the instructions for Line 6a, the definitions are not the same. If, as of the last day of the preceding plan year, the plan was 100% invested in "eligible plan assets," the plan would satisfy the "qualifying plan asset" prong of the audit waiver conditions. Holding all the plan's investments in "qualifying plan assets," however, would not necessarily satisfy the conditions for filing the Form 5500–SF. For example, real estate held by a bank as trustee for a plan could be a qualifying plan asset for purposes of the small pension plan audit waiver conditions but it would not be an "eligible plan asset" for purposes of the plan being eligible to file the Form 5500–SF because real estate would not have a readily determinable fair market value as described in 29 CFR 2520.103–1(c)(2)(ii)(C).*

Line 8c. If you answer "yes" because the plan provided health benefits, whether through insurance or otherwise, you must file the Form 5500 and cannot file the Form 5500–SF regardless of plan size or, if any, investment type.

Part IV—Financial Information

Note. The cash, modified cash, or accrual basis may be used for recognition of transactions in Parts I and II, as long as you use one method consistently. Round off all amounts reported on the Form 5500–SF to the nearest dollar. Any other amounts are subject to rejection. Check all subtotals and totals carefully.

Current value means fair market value where available. Otherwise, it means the fair value as determined in good faith under the terms of the plan by a trustee or named fiduciary, assuming an orderly liquidation at the time of the determination. See ERISA section 3(26).

Line 9. Plan Assets and Liabilities. Amounts reported on the Form 5500–SF for the beginning of the plan year must be the same as reported for the end of the plan year for the corresponding lines on the return/report for the preceding plan year.

Line 9a. Enter the total amount of plan assets at the beginning of the plan year in column (a). Do not include contributions designated for the 20**XX** plan year in column (a).

Enter the total amount of plan assets at the end of the plan year in column (b). Do not include in column (b) a participant loan that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)–1 if both the following circumstances apply: (1) Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and (2) As of the end of the plan year, the participant is not continuing repayment under the loan.

If the deemed distributed participant loan is included in column (a) and both of these circumstances apply, include the value of the loan as a deemed distribution on Line 8e. However, if either of these two circumstances does not apply, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included in column (b) without regard to the occurrence of a deemed distribution.

After a participant loan that has been deemed distributed it is included in the amount reported on Line 10e, it is no longer to be reported as an asset on Line 9a unless, in a later year, the participant resumes repayment under the loan. However, such a loan (including interest accruing thereon after the deemed distribution) that has not been repaid is still considered outstanding for purposes of applying Code section 72(p)(2)(A) to determine the maximum amount of subsequent loans. Also, the deemed distribution is not treated as an actual distribution for other purposes, such as the qualification requirements of Code section 401, including, for example, the determination of top-heavy status under Code section 416 and the vesting requirements of Treasury Regulations section 1.411(a)–7(d)(5). See Q&As 12 and 19 of Treasury Regulations section 1.72(p)–1.

The entry on Line 9a, column (b) (plan assets at end of year) must include the current value of any participant loan included as a deemed distribution in the amount reported for any earlier year if, during the plan year, the participant resumes repayment under the loan. In addition, the amount to be entered on Line 10e must be reduced by the amount of the participant loan reported as a deemed distribution for the earlier year.

Line 9b. Enter the total liabilities at the beginning and end of the plan year. Liabilities to be entered here do not include the value of future pension payments to participants. The amount to be entered in Line 9b for accrual basis filers includes, among other things:

1. Benefit claims that have been processed and approved for payment by the plan but have not been paid (including all incurred but not reported (IBNR) welfare benefit claims);
2. Accounts payable obligations owed by the plan that were incurred in the normal operations of the plan but have not been paid; and
3. Other liabilities such as acquisition indebtedness and any other amount owed by the plan.

Line 9c. Enter the net assets as of the beginning and end of the plan year. (Subtract Line 9b from Line 9a). Line 9c, column (b), must equal the sum of Line 9c, column (a), plus Line 10j (net income (loss)) and Line 10k (transfers to (from) the plan).

Line 10—Income, Expenses, and Transfers for this Plan Year.

Line 10a. Receivables. Include the total cash contributions received and/or (for accrual basis plans) due to be received.

Line 10a(1). Contributions—Employer and Employee. Plans using the accrual basis of accounting must not include contributions designated for years before the 20**XX** plan year on Line 10a(1). For welfare plans, report all employee contributions, including all elective contributions under a cafeteria plan (Code section 125). For pension plans, participant contributions, for purposes of this line item, also include elective contributions under a qualified cash or deferred arrangement (Code section 401(k)).

Line 10a(2). Enter the current value, at date contributed, of all other contributions, including rollovers from other plans.

Line 10b. Enter all other plan income for the plan year. Do not include transfers from other plans that are reported on Line 10k. Examples of other income received and/or receivable include:

1. Interest on investments (including money market accounts, sweep accounts, etc.)
2. Dividends. (Accrual basis plans should include dividends declared for all stock held by the plan even if the dividends have not been received as of the end of the plan year.)
3. Net gain or loss from the sale of assets.
4. Other income such as unrealized appreciation (depreciation) in plan assets.

To compute this amount, subtract the current value of all assets at the beginning of the year plus the cost of any assets acquired during the plan year from the current value of all assets at the end of the year minus assets disposed of during the plan year.

Line 10c. Enter the total of all cash contributions (Line 10a(1) through Line 10a(3)) and other plan income (Line 10b) during the plan year. If entering a negative number, enter a minus sign ("–") to the left of the number.

Line 10d. Include: (1) payments made (and, for accrual basis filers, payments due) to or on behalf of participants or beneficiaries in cash, securities, or other property (including rollovers of an individual's accrued benefit or account balance). Include all eligible rollover distributions as defined in Code section 401(a)(31)(D) paid at the participant's election to an eligible retirement plan (including an IRA within the meaning of Code section 401(a)(31)(E)); (2) payments to insurance companies and similar organizations for the provision of plan benefits (e.g., paid-up annuities, accident insurance, etc.); and (3) payments made to other organizations or individuals providing benefits. Generally, these payments discussed in (3) are made to individual providers of welfare benefits such as legal services, day care services, and training and apprenticeship services. If securities or other property are distributed to plan participants or beneficiaries, include the current value as of the date of distribution.

Line 10e. Include on this line all distributions paid during the plan year of excess deferrals under Code section 402(g)(2)(A)(ii), excess contributions under Code section 401(k)(8), and excess aggregate contributions under Code section 401(m)(6). Include allocable income distributed. Also include on this line any elective deferrals and employee contributions distributed or returned to employees during the plan year as well as any attributable income that was also distributed.

For Line 10e, also include in the total amount a participant loan included in Line 10b, column (a) that has been deemed distributed during the plan year under the provisions of Code section 72(p) and Treasury Regulations section 1.72(p)–1 only if both of the following circumstances apply:

1. Under the plan, the participant loan is treated as a directed investment solely of the participant's individual account; and
2. As of the end of the plan year, the participant is not continuing repayment under the loan.

If either of these circumstances does not apply, a deemed distribution of a participant loan should not be included in the total on Line 10e. Instead, the current value of the participant loan (including interest accruing thereon after the deemed distribution) should be included on Lines 9a, column (b) (plan assets—end of year), and 10b (participant loans—end of year), without regard to the occurrence of a deemed distribution.

Note. The amount to be reported on Line 10d must be reduced if, during the plan year, a participant resumes repayment under a participant loan reported as a deemed distribution on Line 2g of Schedule H of a prior Form 5500 Annual Return/Report or Line 10e of a prior Form 5500–SF for any earlier year. The amount of the required reduction is the amount of the participant loan that was reported as a deemed distribution on such line for any earlier year. If entering a negative number, enter a minus sign ("–") to the left of the number. The current value of the participant loan must then be included on line 9a, column (b) (plan assets—end of year).

Although certain participant loans deemed distributed are to be reported on Line 10e, and are not to be reported on the Form 5500–SF or on the Schedule H of the Form 5500 Annual Return/Report as an asset thereafter (unless the participant resumes repayment under the loan in a later year), they are still considered outstanding loans and are not treated as actual distributions for certain purposes. See Q&As 12 and 19 of Treasury Regulations section 1.72(p)–1.

Line 10f. The amount to be reported for expenses involving administrative service providers (salaries, fees, and commissions) includes the total fees paid (or in the case of accrual basis plans, costs incurred during the plan year but not paid as of the end of the plan year) by the plan for, among others:

1. Salaries to employees of the plan;
2. Fees and expenses for accounting, actuarial, legal, investment management, investment advice, and securities brokerage services;
3. Contract administrator fees; and
4. Fees and expenses for individual plan trustees, including reimbursement for travel, seminars, and meeting expenses.

Line 10g. Other expenses (paid and/or payable) include other administrative and miscellaneous expenses paid by or charged to the plan, including among others office supplies and equipment, telephone, and postage.

Line 10h. Enter the total of all benefits paid or due reported on Lines 10d and 10e and all other plan expenses reported on Lines 10f and 10g during the year.

Line 10i. Subtract Line 10i from Line 10b.

Line 10j. Enter the net value of all assets transferred to and from the plan during the plan year including those resulting from mergers and spinoffs. A transfer of assets or liabilities occurs when there is a reduction of assets or liabilities with respect to one plan and the receipt of these assets or the assumption of these liabilities by another plan. Transfers out at the end of the year should be reported as occurring during the plan year.

Note. A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., should not be included on Line 8j but must be included in benefit payments reported on Line 10d. Do not submit IRS Form 1099–R with the Form 5500–SF.

Lines 11(a)–(i). Enter the totals for the various categories as appropriate.

[CAUTION] *Filers that have assets that do not fit into any of these breakout categories must file the Form 5500. If, the plan is invested in any assets other than eligible plan assets, which includes the requirement of being readily marketable, you must file the Form 5500 and required schedules. For example, if the plan holds real estate, nonpublicly traded securities, shares in a limited partnership, derivatives, notes and stock not traded on an exchange, private equity, and collectibles, or other alternative or hard-to-value assets, then the plan is required to file a Form 5500.*

For reporting purposes, "common/collective trust" and "pooled separate account" are, respectively: (1) a trust maintained by a bank, trust company, or similar institution; or (2) an account maintained by an insurance carrier, which is regulated, supervised, and subject to periodic examination by a state or federal agency in the case of a CCT, or by a state agency in the case of a PSA, for the collective investment and reinvestment of assets contributed thereto from employee benefit plans maintained by more than one employer or controlled group of corporations as that term is used in Code section 1563. See 29 CFR 2520.103–3, 103–4, 103–5, and 103–9. To be eligible plan assets for Form 5500–SF reporting purposes, a bank or insurance company contract, including a CCT or PSA must not only be valued at least annually, but must itself be invested primarily in readily marketable assets.

Note. For reporting purposes, a separate account that is not considered to be holding plan assets pursuant to 29 CFR 2510.3–101(h)(1)(iii) does not constitute a pooled separate account.

Part IV—Plan Characteristics

Line 12. Benefits Provided Under the Plan. Pension plans must answer all applicable questions in Line 11a that applied during the reporting year of the plan or arrangement. Defined benefit pension plans must complete Lines 12(1)–(3), 12a(4) and 12a(9)–(11). Defined contribution pension plans must complete Lines 12a(4)–12a(11). Welfare benefit plans must complete Lines 11b(1)–(3).

Line 12a(1). Defined Benefit Pension Plans; How Benefits Are Calculated. If benefits are based primarily on pay, check the box "Benefits are primarily pay related." If benefits are primarily flat dollar, including dollars per year of service, check the box "Benefits are primarily flat dollar."

Check the box for "Cash balance plan" if the plan has a "cash balance" formula under which the accumulated benefit provided under the formula is expressed as the current balance of a hypothetical account maintained for the participant. For this purpose, a "cash balance" formula is a lump sum based benefit formula in a defined benefit pension plan by whatever name (for example, personal account plan, life cycle plan, cash account plan, etc.).

Check the box for "Pension equity plan (PEP)" if the plan has a "pension equity plan formula under which the accumulated benefit provided under the formula is expressed as the current value of an accumulated percentage of the participant's final average compensation or is expressed as a current single-sum dollar amount equal to a percentage of the participant's *highest* average compensation (with a permitted lookback period for determining highest average compensation, such as highest 5 out of the last 10 years).

Check the box for "Other hybrid plan" if the plan provides a lump sum based benefit formula that is different from the cash balance or pension equity plan formula.

Note that a benefit formula does not constitute a lump sum based benefit formula unless a distribution of the benefits under that formula in the form of a single-sum payment equals the accumulated benefit under that formula (except to the extent the single-sum payment is greater to satisfy the requirements of Code section 411(d)(6)).

Line 12a(2). Code Section Arrangements for Defined Benefit Pension Plans. Check the box for "Code section 414(k) arrangement" if benefits are based partly on the balance of the separate account of the participant (also include appropriate defined contribution pension feature codes).

Line 12a(3). Terminated Defined Benefit Pension Plan. Check "Yes" if the plan is covered by PBGC and was terminated and closed out for PBGC purposes before the end of the plan year (or a prior plan year), and either (1) the plan terminated in a standard (or distress) termination and completed the distribution of plan assets in satisfaction of all benefit liabilities (or all ERISA Title IV benefits for distress termination); or (2) a trustee was appointed for a terminated plan pursuant to ERISA section 4042.

Line 12a(4). PBGC Covered Defined Benefit Pension Plan. If you are uncertain whether the plan is covered under the PBGC termination insurance program, check the box "Not determined" and contact the PBGC either by phone at 1–800–736–2444, by Email at **standard@pbgc.gov,** or in writing to Pension Benefit Guaranty Corporation, Standard Termination Compliance Division, Suite 930, Processing and Technical Assistance Branch, 1200 K Street, NW., Washington, DC 20005–4026. If you checked the box "Yes," enter the My PAA generated confirmation number for the premium filing for this plan year (see filing receipt). If you amended your premium filing for this plan year, enter the confirmation number for that filing and not for the previous filing(s). Defined contribution pension plans and welfare plans do not need to complete this item.

Line 12a(5). Frozen Plans. Check "Yes" if the plan is frozen.

Line 12a(6). Offset Arrangement. Both defined benefit and contribution plans that are part of an offset arrangement must answer this question. Check "Yes" if plan benefits are subject to offset for retirement benefits provided in another plan or arrangement of the employer. If you have checked "Yes," enter the name, EIN of sponsor, and PN of the other plan or arrangement.

Line 12a(7). Defined Contribution Pension Plan Type(s). Defined contribution pension plans only complete this line. Check all type(s) that apply.

Line 12a(8). Defined Contribution Pension Plan Arrangements. If this is a defined contribution pension plan, check the type(s) of arrangements under which the plan operates. (Check all that apply.)

Line 12a(9). Defined Contribution Pension Plan Features. If this is a defined contribution pension plan, check all that apply to indicate features of the plan.

Check automatic enrollment feature if the plan has elective contributions from payroll and provides for automatic enrollment in the plan.

A designated Roth account is a feature in new or existing 401(k), 403(b), or governmental 457(b) plans that permit such plans to accept designated Roth contributions and certain rollovers. If a plan adopts this feature, employees can designate some or all of their elective contributions (also referred to as elective deferrals) as designated Roth contributions (which are included in gross income), rather than traditional, pre-tax elective contributions.

Check the box for "Age/service weighted plan" if allocations are based on age, service, or age and service.

New comparability or similar plan: Allocations are based on participant classifications and a classification(s) consists entirely or predominantly of highly compensated employees; or the plan provides an additional allocation rate on compensation above a specified threshold, and the threshold or additional rate exceeds the maximum threshold or rate allowed under the permitted disparity rules of Code section 401(l).

Check "other" if the plan has any other particularized features for defined contribution pension plans that are not listed above and enter a short description in the space provided.

Line 12a(10). Participant-Directed Defined Contribution Pension Plan. Check the box for ERISA section 404(c) plan if the plan, or any part of it, is intended to meet the conditions of 29 CFR 2550.404c–1.

Check the box for total participant-directed account plan if participants have the opportunity to direct the investment of all the assets allocated to their individual accounts, regardless of whether 29 CFR is intended to be met.

Check partial participant-directed account if participants have the opportunity to direct the investment of a portion of the assets allocated to their individual accounts, regardless of whether 29 CFR is intended to be met. Do not check both "total" and "partial" participant-directed account.

Check the box for participant-directed brokerage accounts if the plan provides such accounts as an investment option under the plan. If you check this box, enter the number of participants using the participant-directed brokerage account(s).

Line 12a(11). Qualified Default Investment Alternatives (QDIAs). Regardless of whether the plan is total or partial participant-directed, if the plan uses default investment alternative(s) (DIA) that are intended to be QDIA(s) for participants who fail to direct assets in their account, also check the box to so indicate. If the plan uses a QDIA for participants who fail to direct assets in their account, indicate type of default investment alternative: target date/life fund; fixed income; money market or equivalent; balanced fund; professionally managed account; or other. If other, specify the type of account. If you checked the box for "Other," you may be using an investment alternative that does not satisfy the QDIA requirements in the Department of Labor's regulation at 29 CFR 2550.404c–5.

Line 12a(12) Eligible Combined Plan Under Code section 414(x). If the plan is an eligible combined plan under Code section 414(x), check "Yes."

Note. In the case of an eligible combined plan under Code section 414(x) and ERISA section 210(e), you must answer all applicable for both the defined benefit pension features and the defined contribution pension features of the plan.

Line 12a(13). Check this box if a rollover from a plan was used to start up the business (ROBS) sponsoring this plan.

Line 12a(14). Other Pension Benefit Features. Check all that apply.

Notes: (1) If a plan sponsor or an employer adopted a pre-approved plan that includes a master & prototype plan or a volume submitter plan, enter the most recent adoption date and the IRS favorable opinion or advisory letter's serial number. (2) Sponsors of Puerto Rico plans, check the box to indicate that the plan is not intended to be qualified under Code sections 401, 403, or 408 only if:

i. only Puerto Rico residents participate,

ii. the trust is exempt from income tax under the laws of Puerto Rico, and

iii. the plan administrator has not made the election under ERISA section 1022(i)(2), and, therefore, the plan is not intended to qualify under section 401(a) of the Internal Revenue Code (U.S).

Line. 12b Welfare Benefit Plan Characteristics. Welfare plans must answer all applicable questions in Line 12b. Plans that provide group health benefits cannot file the Form 5500–SF; they must file the Form 5500. Pension plans skip to Line 13.

Line 12b(1). Disability Benefits. If the plan provides disability benefits, answer "Yes" and check all that apply.

Line 12b(2). Other Welfare Benefits. If the plan provides welfare benefits other than disability, answer "Yes" and check all that apply. If the type of benefits is not listed, check "other" and enter a description.

Line 13. Funding and Benefit Arrangements. Check all boxes that apply to indicate the funding and benefit arrangements used during the plan year. The "funding arrangement" is the method for the receipt, holding, investment, and transmittal of plan assets prior to the time the plan actually provides benefits. "The benefit arrangement" is the method by which the plan provides benefits to participants. For purposes of Line 13:

"*Insurance*" means the plan has an account, contract, or policy with an insurance company, insurance service, or other similar organization during the plan or DFE year. (This includes investments with insurance companies such as guaranteed investment contracts (GICs).) An annuity account arrangement under Code section 403(b)(1) that is required to complete the Form 5500 should mark "insurance" for both the plan funding arrangement and plan benefit arrangement. Do not check "insurance" if the sole function of the insurance company was to provide administrative services.

"Code section 412(e)(3) insurance contract" are contracts that provide retirement benefits under a plan that are guaranteed by an insurance carrier. In general, such contracts must provide for level premium payments over the individual's period of participation in the plan (to retirement age), premiums must be timely paid as currently required under the contract, no rights under the contract may be subject to a security interest, and no policy loans may be outstanding. If a plan is funded exclusively by the purchase of such contracts, the otherwise applicable minimum funding requirements of section 412 of the Code and section 302 of ERISA do not apply for the year and neither the Schedule MB nor the Schedule SB is required to be filed.

"Trust" includes any fund or account that receives, holds, transmits, or invests plan assets other than an account or policy of an insurance company. A custodial account arrangement under Code section 403(b)(7) that is required to complete the Form 5500 should mark "trust" for both the plan funding arrangement and the plan benefit arrangement.

"General assets of the sponsor" means either the plan had no assets or some assets were commingled with the general assets of the plan sponsor prior to the time the plan actually provided the benefits promised.

Example. If the plan holds all its assets invested in registered investment companies and other non-insurance company investments until it purchases annuities to pay out the benefits promised under the plan, box 13a(3) should be checked as the funding arrangement and box 12b(1) should be checked as the benefit arrangement.

Note. An employee benefit plan that checks boxes 13a(1), 13a(2), 13b(1), and/or 13b(2) must answer line 14e to report insurance fee and commission information.

Part VI—Plan Operations Compliance Questions

Line 14. Answer all lines either "Yes" or "No." Do not leave any answer blank unless otherwise directed. For Lines 14a, b, c, d, e, f, and n, if the answer is "Yes," an amount must be entered.

Note. "One-participant plans" should complete only Line 14g.

Line 14a. Amounts paid by a participant or beneficiary to an employer and/or withheld by an employer for contribution to the plan are participant contributions that become plan assets as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets. See 29 CFR 2510.3–102. In the case of a plan with fewer than 100 participants at the beginning of the plan year, any amount deposited with such plan not later than the 7th business day following the day on which such amount is received by the employer (in the case of amounts that a participant or beneficiary pays to an employer), or the 7th business day following the day on which such amount would otherwise have been payable to the participant in cash (in the case of amounts withheld by an employer from a participant's wages), shall be deemed to be contributed or repaid to such plan on the earliest date on which such contributions or participant loan repayments can reasonably be segregated from the employer's general assets. See 29 CFR 2510.3–102(a)(2). Plans that check "Yes," must enter the aggregate amount of all late contributions for the year. The total amount of the delinquent contributions must be included on Line 14a for the year in which the contributions were delinquent and must be carried over and reported again on Line 14a for each subsequent year (or on Line 4a of Schedule H of the Form 5500 if not eligible to file the Form 5500–SF in the subsequent year) until the year after the violation has been fully corrected by payment of the late contributions and reimbursement of the plan for lost earnings or profits. If no participant contributions were received or withheld by the employer during the plan year, answer "No."

An employer holding participant contributions commingled with its general assets after the earliest date on which such contributions can reasonably be segregated from the employer's general assets will have engaged in a prohibited use of plan assets (see ERISA section 406). If such a nonexempt prohibited transaction occurred with respect to a disqualified person (see Code section 4975(e)(2)), file IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay any applicable excise tax on the transaction.

Participant loan repayments paid to and/or withheld by an employer for purposes of transmittal to the plan that were not transmitted to the plan in a timely fashion must be reported either on Line 14a in accordance with the reporting requirements that apply to delinquent participant contributions or on Line 14b. See Advisory Opinion 2002–02A, available at *www.dol.gov/ebsa.*

Applicants that satisfy both the DOL Voluntary Fiduciary Correction Program (VFCP) and the conditions of Prohibited Transaction Exemption (PTE) 2002–51 are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions, and are also relieved from the requirement to file the IRS Form 5330 with the IRS. For more information on how to apply under the VFCP, the specific transactions covered (which transactions include delinquent participant contributions to pension and welfare plans), and acceptable methods for correcting violations. See 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). All delinquent participant contributions must be reported on Line 14a at least for the year in which they were delinquent even if violations have been fully corrected by the close of the plan year. Information about the VFCP is also available on the Internet at *www.dol.gov/ebsa.*

Line 14b. Plans that check "Yes" must enter the amount. Check "Yes" if any nonexempt transaction with a party-in-interest occurred. Do not check "Yes" with respect to transactions that are: (1) statutorily exempt under Part 4 of Title I of ERISA; (2) administratively exempt under ERISA section 408(a); (3) exempt under Code sections 4975(c) or 4975(d); (4) the holding of participant contributions in the employer's general assets for a welfare plan that meets the conditions of ERISA Technical Release 92–01; or (5) delinquent participant contributions or delinquent loan repayments reported on Line 14a. You may indicate that an application for an administrative exemption is pending. If you are unsure whether a transaction is exempt or not, you should consult either with a qualified public accountant, legal counsel, or both. If the plan is a qualified pension plan and a nonexempt prohibited transaction occurred with respect to a disqualified person, an IRS Form 5330 is required to be filed with the IRS to pay the excise tax on the transaction.

Nonexempt transactions. Nonexempt transactions with a party-in-interest include any direct or indirect:

A. Sale or exchange, or lease, of any property between the plan and a party-in-interest.

B. Lending of money or other extension of credit between the plan and a party-in-interest.

C. Furnishing of goods, services, or facilities between the plan and a party-in-interest.

D. Transfer to, or use by or for the benefit of, a party-in-interest, of any income or assets of the plan.

E. Acquisition, on behalf of the plan, of any employer security or employer real property in violation of ERISA section 407(a).

F. Dealing with the assets of the plan for a fiduciary's own interest or own account.

G. Acting in a fiduciary's individual or any other capacity in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

H. Receipt of any consideration for his or her own personal account by a party-in-interest who is a fiduciary from any party dealing with the plan in connection with a transaction involving the income or assets of the plan.

Party-in-Interest. For purposes of this form, party-in-interest is deemed to include a disqualified person. See Code section 4975(e)(2). The term "party-in-interest" means, as to an employee benefit plan:

A. Any fiduciary (including, but not limited to, any administrator, officer, trustee, or custodian), counsel, or employee of the plan;

B. A person providing services to the plan;

C. An employer, any of whose employees are covered by the plan;

D. An employee organization, any of whose members are covered by the plan;

E. An owner, direct or indirect, of 50% or more of:

1. the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation;
2. the capital interest or the profits interest of a partnership; or
3. the beneficial interest of a trust or unincorporated enterprise which is an employer or an employee organization described in C or D;

F. A relative of any individual described in A, B, C, or E;

G. A corporation, partnership, or trust or estate of which (or in which) 50% or more of:

1. the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,
2. the capital interest or profits interest of such partnership, or
3. the beneficial interest of such trust or estate, is owned directly or indirectly, or held by persons described in A, B, C, D, or E;

H. An employee, officer, director (or an individual having powers or responsibilities similar to those of officers or directors), or a 10% or more shareholder directly or indirectly, of a person described in B, C, D, E, or G, or of the employee benefit plan; or

I. A 10% or more (directly or indirectly in capital or profits) partner or joint venturer of a person described in B, C, D, E, or G.

[TIP] *Applicants that satisfy the VFCP requirements and the conditions of PTE 2002–51 (see the instructions for Line 12a) are eligible for immediate relief from payment of certain prohibited transaction excise taxes for certain corrected transactions and the requirement to file the Form 5330 with the IRS. For more information, see 71 FR 20261 (Apr. 19, 2006) and 71 FR 20135 (Apr. 19, 2006). When the conditions of PTE 2002–51 have been satisfied, the corrected transactions should be treated as exempt under Code section 4975(c) for the purposes of answering Line 14b.*

Line 14c. Plans that check "Yes" must enter the aggregate amount of fidelity bond coverage for all claims. Check "Yes" only if the plan itself (as opposed to the plan sponsor or administrator) is a named insured under a fidelity bond that is from an approved surety covering plan officials and that protects the plan from losses due to fraud or dishonesty as described in 29 CFR part 2580. Generally, every plan official of an employee benefit plan who "handles" funds or other property of such plan must be bonded. Generally, a person shall be deemed to be "handling" funds or other property of a plan, so as to require bonding, whenever his or her duties or activities with respect to given funds are such that there is a risk that such funds could be lost in the event of fraud or dishonesty on the part of such person, acting either alone or in collusion with others. Section 412 of ERISA and 29 CFR part 2580 describe the bonding requirements, including the definition of "handling" (29 CFR 2580.412–6), the permissible forms of bonds (29 CFR 2580.412–10), the amount of the bond (29 CFR part 2580, subpart C), and certain exemptions such as the exemption for unfunded plans, certain banks and insurance companies (ERISA section 412), and the exemption allowing plan officials to purchase bonds from surety companies authorized by the Secretary of the Treasury as acceptable reinsurers on federal bonds (29 CFR 2580.412–23). Information concerning the list of approved sureties and reinsurers is available on the Internet at *www.fms.treas.gov/c570.* For more information on the fidelity bonding requirements, see Field Assistance Bulletin 2008–04, available at *www.dol.gov/ebsa.*

Note. Plans are permitted under certain conditions to purchase fiduciary liability insurance. These fiduciary liability insurance policies are not written specifically to protect the plan from losses due to dishonest acts and cannot be reported as fidelity bonds on Line 13c.

Line 14d. Check "Yes" if the plan had suffered or discovered any loss as a result of any dishonest or fraudulent act(s) even if the loss was reimbursed by the plan's fidelity bond or from any other source. If "Yes" is checked enter the full amount of the loss. If the full amount of the loss has not yet been determined, provide an estimate as determined in good faith by a plan fiduciary. You must keep, in accordance with ERISA section 107, records showing how the estimate was determined.

[CAUTION] *Willful failure to report is a criminal offense. See ERISA section 501.*

Line 14e. If any benefits under the plan are provided by an insurance company, insurance service, or other similar organization or if the plan has investments with insurance companies such as guaranteed investment contracts (GICs), report the total of all insurance fees and commissions paid to agents, brokers and/or other persons directly or indirectly attributable to the contract(s) placed with or retained by the plan.

For purposes of Line 14e, commissions and fees include sales or base commissions and all other monetary and non-monetary forms of compensation where the broker's, agent's, or other person's eligibility for the payment or the amount of the payment is based, in whole or in part, on the value (*e.g.,* policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by an ERISA plan, including, for example, persistency and profitability bonuses. The amount (or pro rata share of the total) of such commissions or fees attributable to the contract or policy placed with or retained by the plan must be reported. Insurers must provide plan administrators with a proportionate allocation of commissions and fees attributable to each contract. Any reasonable method of allocating commissions and fees to policies or contracts is acceptable, provided the method is disclosed to the plan administrator. A reasonable allocation method could allocate fees and commissions based on a calendar year calculation even if the plan year or policy year was not a calendar year. For additional information on these reporting requirements, see ERISA Advisory opinion 2005–02A, available on the Internet at *www.dol.gov/ebsa.*

Where benefits under a plan are purchased from and guaranteed by an insurance company, insurance service, or other similar organization, and the total fees and commissions are reported on the Form 5500–SF, payments of reasonable monetary compensation by the insurer out of its general assets to affiliates or third parties for performing administrative activities necessary for the insurer to fulfill its contractual obligation to provide benefits, where there is no direct or indirect charge to the plan for administrative services other than the insurance premium, then the payments for administrative services by the insurer to the affiliates or third parties do not need to be reported on Line 14e. This would include compensation for services such as recordkeeping and claims processing services provided by a third party pursuant to a contract with the insurer to provide those services but would not include compensation provided by the insurer incidental to the sale or renewal of a policy, such as finders' fees, insurance brokerage commissions and fees, or similar fees.

Reporting also is not required for compensation paid by the insurer to a "general agent" or "manager" for that general agent's or manager's management of an agency or performance of administrative functions for the insurer. For this purpose, (1) a "general agent" or "manager" does not include brokers representing insureds, and (2) payments would not be treated as paid for managing an agency or performance of administrative functions where the recipient's eligibility for the payment or the amount of the payment is dependent or based on the value (*e.g.,* policy amounts, premiums) of contracts or policies (or classes thereof) placed with or retained by ERISA plan(s).

Reporting is not required for occasional gifts or meals of insubstantial value which are tax deductible for federal income tax purposes by the person providing the gift or meal and would not be taxable income to the recipient. For this exemption to be available, the gift or gratuity must be both occasional and insubstantial. For this exemption to apply, the gift must be valued at less than $50, the aggregate value of gifts from one source in a calendar year must be less than $250, but gifts with a value of less than $10 do not need to be counted toward the $250 annual limit. If the $250 aggregate value limit is exceeded, then the aggregate value of all the gifts will be reportable. For this purpose, non-monetary gifts of less than $10 also do not need to be included in calculating the aggregate value of all gifts required to be reported if the $250 limit is exceeded.

Gifts from multiple employees of one service provider should be treated as originating from a single source when calculating whether the $50 or $250 thresholds apply. On the other hand, in applying the threshold to an occasional gift received from one source by multiple employees of a single service provider, the amount received by each employee should be separately determined in applying the $50 and $250 thresholds. For example, if 11 employees of a broker attend a business conference put on by an insurer designed to educate and explain the insurer's products for employee benefit plans, and the insurer provides, at no cost to the attendees, refreshments valued at $25 per individual, the gratuities would not be reportable on this line even though the total cost of the refreshments for all the employees would be $275.

These thresholds are for purposes of Line 13e reporting. Filers are cautioned that the payment or receipt of gifts and gratuities of any amount by plan fiduciaries may violate ERISA and give rise to civil liabilities and criminal penalties.

Important Reminder. The insurance company, insurance service, or other similar organization is required under ERISA section 103(a)(2) to provide the plan administrator with the information needed to complete this return/report. Your insurance company must provide you with the information you need to answer this question. If your insurance company, insurance service, or other similar organization does not automatically send you this information, you should make a written request for the information. If you have difficulty getting the information from your insurance company, contact the nearest office of the DOL's Employee Benefits Security Administration.

Line 14f. You must check "Yes" if any benefits due under the plan were not timely paid or not paid in full. Include in this amount the total of any outstanding amounts that were not paid when due in previous years that have continued to remain unpaid.

Line 14g. Code section 401(k) and other individual account pension plans must complete Line 10h. Other filers should leave Line 10h blank. Check "Yes" if there was a "blackout period." A blackout period is a temporary suspension of more than three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable, or were limited or restricted in their ability, to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan. A "blackout period" generally does not include a temporary suspension of the right of participants and beneficiaries to direct or diversify assets credited to their accounts, obtain loans from the plan, or obtain distributions from the plan if the temporary suspension is: (1) part of the regularly scheduled operations of the plan that has been disclosed to participants and beneficiaries; (2) due to a qualified domestic relations order (QDRO) or because of a pending determination as to whether a domestic relations order is a QDRO; (3) due to an action or a failure to take action by an individual participant or because of an action or claim by someone other than the plan regarding a participant's individual account; or (4) by application of federal securities laws. For more information, see the DOL's regulation at 29 CFR 2520.101–3 (available at *www.dol.gov/ebsa*).

Line 14h. Code section 401(k) and other individual account pension plans who answered "Yes" to Line 14h must complete Line 14i. Other filers should leave Line 14i blank. If there was a blackout period, did you provide the required notice not less than 30 days nor more than 60 days in advance of restricting the rights of participants and beneficiaries to change their plan investments, obtain loans from the plan, or obtain distributions from the plan? If so, check "Yes." See 29 CFR 2520.101–3 for specific notice requirements and for exceptions from the notice requirement. Also, answer "Yes" if one of the exceptions to the notice requirement under 29 CFR 2520.101–3 applies.

Line 14i. Disclosures for Participant-Directed Accounts. All individual account plans that provide for participant-direction must provide specified disclosures under 29 CFR 2550.404a–5 with respect to each participant or beneficiary that, pursuant to the terms of the plan, has the right to direct the investment of assets held in, or contributed to, his or her individual account. Included in the required disclosures is a comparison chart. If subject to the disclosure requirements under 29 CFR 2550.404a–5, answer "Yes" and attach to your Form 5500–SF, a copy of the comparison chart for the plan year.

Line 14j. If you answered "Yes" to Line 14j, check the box to indicate whether the plan provide participants and beneficiaries the plan and investment disclosures required under 29 CFR 2550.404a–5(d)(2) and, if you answered "Yes," attach the comparison chart(s) provided to participants and beneficiaries.

Line 14k. If you answered "Yes," to Line 14j, enter the number of designated investment alternatives (DIAs) available under the plan and indicate the number of DIAs that are index funds.

Line 14l. If you answered "Yes," to Line 14j, check the appropriate box to indicate whether the plan made available to participants and beneficiaries a designated investment manager (DIM). If you answered "Yes," enter name of DIM.

Line 14m. Check "Yes," if the plan make available to participants and beneficiaries any brokerage window, self-directed brokerage account or similar plan arrangements that enabled participants to select investments beyond those designated by the plan. If you answered "Yes" to Line 14n, enter the number of participants that utilized the account or arrangement.

Line 14n. Unrelated Business Taxable Income. Unrelated business taxable income generally means the gross income derived from any unrelated trade or business (as defined in Code section 513) regularly conducted and not substantially related to the plan's exempt purpose under Code section 512, less the deductions directly connected with carrying on the trade or business. See IRS Publication 598 for more information. Check "N/A" if this plan does not have a trust, such as 412(e)(3) fully insured plans or certain 403(b) annuity plans.

Plans that check "Yes" must enter any amount of unrelated business taxable income. Form 990–T, Exempt Organization Business Income Tax Return, is required to be filed for any gross income of $1000 or more generated by an employer's trust by the 15th day of the 4th month following the end of the trust's tax year. See Instructions to Form 990–T for more details.

Line 14o. Check "Yes" if an employer sponsoring the plan pays any of the administrative expenses of the plan that were not reported on Line 10g.

Line 14p. Check "Yes" if any person who is disqualified under ERISA Section 411, served or was permitted to serve the plan in any capacity. Section 411 of ERISA establishes a bar against certain persons serving as employee benefit plan fiduciaries or service providers because they have been convicted of any of a broad range of specified crimes. Prohibited positions and activities include consultants and advisers to plans and any entity whose activities are in whole or substantial part devoted to providing goods or services to employee benefit plans. As amended by the Comprehensive Crime Control Act of 1984, section 411 of ERISA prohibits such persons from serving plans for a period of thirteen years after such judgment or the end of imprisonment resulting from a disqualifying conviction, whichever is later, unless the sentencing court, under appropriate circumstances, has reduced the period of prohibition to not less than three years or has determined that service in any of the prohibited capacities would not be contrary to the purposes of ERISA. The prohibition takes effect upon the date of conviction (the date of entry of judgment by the trial court) or the end of imprisonment, whichever is later.

Line 14q. Check "Yes" if the plan sponsor or its affiliates provide any services to the plan in exchange for direct or indirect compensation.

Line 14r. Termination of Service Providers. Identify any service providers that have been terminated for a material failure to meet the terms of a service arrangement or failure to comply with Title I of ERISA, including the failure to provide required disclosures under 29 CFR 2550.408b–2. If the reason for termination was the failure to provide required disclosures under 29 CFR 2550.408b–2, in addition to providing an explanation in (6), check the box in element (7).

Line 14s. See 29 CFR 2520.102–2 and 2520.102–3 for style, format, and content requirements for summary plan descriptions. For distribution requirements see 29 CFR 2520.104b.

Line 14t. Defined contribution pension plans must complete Line 14t. For purposes of Line 14t, an uncashed check is one that is no longer negotiable or is subject to limited payability. Check "Yes," if there were any uncashed checks as of the end of the plan year. If "Yes," indicate the number of checks that were uncashed at the end of the plan year and the total value of the checks. Briefly describe the procedures followed by the plan to verify a participant's or beneficiary's address before a check was mailed. Plans must ensure that they use measures reasonably calculated to ensure actual receipt of materials by plan participants and beneficiaries, which would include procedures to keep track of participants' and beneficiaries' current mailing addresses so that information is less likely to be mailed to a bad address. See CFR 2520.104b–1(b). Also, briefly describe the procedures followed by the plan to address the uncashed checks, including steps to locate "lost participants."

Plans should have procedures to keep track of uncashed checks. The procedures for ongoing plans should include procedures for locating "missing" participants. Plans may use the steps described in FAB 2014–01 to search for missing participants or beneficiaries, which may be helpful in particular where a check was returned as "undeliverable." The procedures should also include a method by which plan fiduciaries keep track or are made aware of the number of uncashed checks and the amount involved. Such procedures could include contractually requiring any third party administrators to keep the plan administrator regularly informed of uncashed checks. For missing participant and beneficiary searches and distributions from terminating defined contribution pension plans, see 29 CFR 2550.404a–3; DOL Field Assistance Bulletin 2014–01 (Aug. 14, 2014).

Part VI—Pension Funding Compliance

Complete Part VI only if the plan is subject to the minimum funding requirements of Code section 412 or ERISA section 302.

All qualified defined benefit and defined contribution pension plans are subject to the minimum funding requirements of Code section 412 unless they are described in the exceptions listed under Code section 412(e)(2). These exceptions include profit-sharing or stock bonus plans, insurance contract plans described in Code section 412(e)(3), and certain plans to which no employer contributions are made.

Nonqualified employee pension benefit plans are subject to the minimum funding requirements of ERISA section 302 unless specifically exempted under ERISA sections 4(a) or 301(a).

The employer or plan administrator of a single-employer or multiple-employer defined benefit pension plan that is subject to the minimum funding requirements must file the Schedule SB (Form 5500) as an attachment to the Form 5500–SF. The employer or plan administrator of a money purchase plan that is currently amortizing a waiver of the minimum funding requirements must complete Lines 3, 9, and 10 of the Schedule MB (Form 5500) and file it as an attachment to the Form 5500–SF.

Line 15. If "Yes" is checked, attach a completed and signed Schedule SB (Form 5500), and complete Line 15a. See the instructions for the Schedule SB in the Instructions for Form 5500. If this is a defined contribution pension plan, leave blank.

Line 15a. Enter the amount from Line 40 of Schedule SB (Form 5500).

Line 16. Check the "Yes" box if the plan is a defined contribution pension plan subject to the minimum funding requirements of Code section 412 and ERISA section 302. Those money purchase plans (including target benefit plans) that are amortizing a waiver of the minimum funding standard for a prior year should fill out Line 16a and then skip to Line 17. Those defined contribution pension plans answering "Yes" to the Line 15 question that do not fill out Line 16a should fill out Lines 16b–16e.

Line 16a. If a money purchase defined contribution pension plan (including a target benefit plan) has received a waiver of the minimum funding standard, and the waiver is currently being amortized, complete Lines 3, 9, and 10 of Schedule MB (Form 5500). See instructions for Schedule MB in the Instructions for Form 5500 Annual Return/Report. The Schedule MB for a money purchase defined contribution pension plan does not need to be signed by an enrolled actuary.

Line 16b. The minimum required contribution for a money purchase defined contribution pension plan (including a target benefit plan) for a plan year is the amount required to be contributed for the year under the formula set forth in the plan document. If there is an accumulated funding deficiency for a prior year that has not been waived, that amount should also be included as part of the contribution required for the current year.

Line 16c. Include all contributions for the plan year made not later than 8½ months after the end of the plan year. Show only contributions actually made to the plan by the date the form is filed. For example, do not include receivable contributions for this purpose

Line 16d. If the minimum required contribution exceeds the contributions for the plan year made not later than 8½ months after the end of the plan year, the excess is an accumulated funding deficiency for the plan year. File IRS Form 5330, Return of Excise Taxes Related to Employee Benefit Plans, with the IRS to pay the excise tax on the deficiency. There is a penalty for not filing Form 5330 on time.

Line 16e. Check "Yes" if the minimum required contribution remaining in Line 15d will be made not later than 8½ months after the end of the plan year. If "Yes," and contributions are actually made by this date, then there will be no reportable deficiency and IRS Form 5330 will not need to be filed.

Part VII—Plan Terminations and Transfers of Assets

Line 17a. Check "Yes" if a resolution to terminate the plan was adopted during this or any prior plan year, unless the termination was revoked and no assets reverted to the employer. If "Yes" is checked, enter in Line 17a(1) the effective date of plan termination, enter in Line 18a(2) the plan year in which assets were distributed to participants and beneficiaries (including insurance/annuity contracts) and enter in Line 17a(3) the amount of plan assets that reverted to the employer during the plan year in connection with the implementation of such termination. Enter "0" if no reversion occurred during the current plan year.

Line 17b. Transfer to other plans. If the plan transferred assets or liabilities to another plan since the date of the most recent filing, report the EIN and PN of the plan to which the assets and liabilities were transferred (*i.e.*, the "transferee plan"). In addition, report the date of the transfer and check the box that best describes the type of transfer (see **Definitions** below). Do not use a social security number in lieu of an EIN or include an attachment that contains visible social security numbers. The Form 5500–SF is open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number or any portion thereof on this Schedule H or the inclusion of a visible social security number or any portion thereof on an attachment may result in the rejection of the filing.

Note. A distribution of all or part of an individual participant's account balance that is reportable on Form 1099–R should not be included on Line 17b. Do not submit Form 1099–R with the Form 5500 Annual Return/Report.

*IRS **Form 5310–A,*** Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business, may be required to be filed at least 30 days before any plan merger or consolidation or any transfer of plan assets or liabilities to another plan. There is a penalty for not filing IRS Form 5310–A on time. In addition, a transfer of benefit liabilities involving a plan covered by PBGC insurance may be reportable to the PBGC. See PBGC Form 10, Post-Event Notice of Reportable Events, and PBGC Form 10-Advance, Advance Notice of Reportable Events.

Line 17c. Transfer from other plans. If another plan transferred assets or liabilities to this plan since the date of the most recent filing, report the EIN and PN of sponsor of the plan from which the assets and liabilities were transferred (*i.e.*, the "transferor plan"), the date of the transfer, and the box that best describes tot type of transfer.

"Consolidation" means a transaction in which two or more plans transfer all of their assets and liabilities to a new plan and, as a result, cease to exist (because the transferor plans become part of the new transferee plan). It differs from a Merger because in a Merger, the transferee plan existed before the transaction. In a consolidation, the transferee plan is a new plan that is created in the Consolidation. Thus, the plan that exists after the Consolidation follows the PBGC premium filing rules for new plans.

"Merger" means a transaction I which one or more plans transfer all of their assets and liabilities to an existing plan and, as a result, cease to exist (because the transferor plan(s) become part of the transferee plan). It differs from a Consolidation because in a Consolidation, the transferee plan did not exist before the transaction. In a Merger, the transferee plan is an existing plan and follows the rules for a preexisting, ongoing plan.

"Spinoff" means a transaction in which the transferor plan transfers only part of its assets and/or liabilities to the transferee plan. The transferee plan may be a new plan that is created in the Spinoff, or it may be a preexisting plan that simply receives part of the assets or liabilities of the transferor plan.

Note: If Final Return/Report is checked on the Form 5500 or Form 5500–SF, information should be entered an at least one of Lines 17a, 17b, or 17c. Participant-directed transfers do not need to be reported on Line 17c. If you reported transfers of assets and liabilities to this plan on Line 10k, information should be entered in Line 17d.

Line 17d. Defined Contribution Pension Plan—Transfers to financial institution. If the filer is a defined contribution pension plan, indicate whether, as part of the procedures for terminating the plan, transferred plan assets to a financial institution(s), establishing interest bearing federally insured bank accounts in the name of missing participants in connection with terminating the plan. If "Yes," complete elements (1)–(5). List each financial institution where plan assets were transferred and continue reporting until the plan terminates and the final return/report is filed. For more information on making provisions for lost or missing participants, see DOL Field Assistance Bulletin 2014–01.

Part VIII—Trust Information

Line 18a. Enter the "Name of trust." If a plan uses more than one trust or custodial account for its fund, you should enter the primary trust or custodial account in which the greatest dollar amount or largest percentage of the plan assets as of the end of the plan year is held on this line. For example, if a plan uses three different trusts, X, Y, Z, with the percentages of plan assets, 35%, 45%, and 20%, respectively, trust Y that held the 45% of plan assets would be entered in Line 18a.

Line 18b. Enter the "Trust's Employer Identification Number (EIN)" assigned to the employee benefit trust or custodial account, if one has been issued to you. The trust EIN should be used for transactions conducted for the trust. If you do not have a trust EIN, enter the EIN you would use on Form 1099–R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., to report distributions from employee benefit plans and on Form 945, Annual Return of Withheld Federal Income Tax, to report withheld amounts of income tax from those payments.

Do not use a social security number in lieu of an EIN. Form 5500 and its attachments are open to public inspection, and the contents are public information and are subject to publication on the Internet. Because of privacy concerns, the inclusion of a social security number *or* any portion thereof may result in the rejection of the filing.

Trust EINs can be obtained from the IRS by applying for one on Form SS–4, Application for Employer Identification Number. See Instructions to Line 2b (Form 5500) for applying for an EIN. Also see IRS *EIN application* link page for further information.

Line 18c. Enter the name of the plan trustee or custodian.

Line 18d. Enter the telephone number for the plan trustee or custodian.

Part IX—IRS Compliance Questions [New]

Note. If you are required to file an annual return of employee benefit plans under Code section 6058, you must complete this part from Lines 18 through 24, unless you are required to file fewer than 250 returns of any type with the IRS, including information returns (for example, Forms W–2 and Forms 1099), income tax returns, employment tax returns, and excise tax returns during the calendar year, then you can alternatively file Form 5500–SUP with the IRS on paper. See the Treasury regulations on "Employee Retirement Benefit Plan Returns Required on Magnetic Media" (See T.D. 9695, 79 FR 58256 at *http://federalregister.gov/a/2014-23161*) and Instructions for Form 5500–SUP for more information.

Line 19a. Check "Yes" if the plan includes a cash or deferred arrangement (CODA), under which a covered employee may elect to have the employer either contribute an amount to the plan's trust on behalf of the employee or to pay the employee directly in cash or some other taxable benefit. The contributions go into an individual account, with the employee often choosing the investments based on options provided under the plan. In some plans, the employer also makes contributions, such as contributions that match the employee's contributions up to a certain percentage.

Line 19b.

If Line 19a is "Yes," check the applicable method used to satisfy the nondiscrimination requirements of Code section 401(k). A safe harbor 401(k) plan is similar to a traditional 401(k) plan but, among other things, it must provide for employer contributions. These contributions may be employer matching contributions, limited to employees who defer, or employer contributions made on behalf of all eligible employees, regardless of whether they make elective deferrals. The safe harbor 401(k) plan is not subject to the complex annual nondiscrimination tests that apply to traditional 401(k) plans. Check "Design-based safe harbor method" if this is a safe harbor 401(k) plan that is a SIMPLE 401(k) plan under Code section 401(k)(11), a safe harbor 401(k) plan under Code section 401(k)(12), or a qualified automatic contribution arrangement under Code section 401(k)(13).

If the plan, by its terms, does not satisfy the safe harbor method, it generally must satisfy the regular nondiscrimination test, known as the actual deferral percentage (ADP) test. Check the appropriate box to indicate if the plan uses the "current year" ADP test or the "prior year" ADP test. Check "current year" ADP test if the plan uses the current year testing method under which the ADP test is performed by comparing the current plan year's ADP for HCEs with the current plan year's (rather than the prior plan year's) ADP for NHCEs. Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis. Check "N/A" if the plan is not required to test for nondiscrimination under Code section 401(k)(3), such as a plan in which no HCE is benefitting.

Line 20a. Check the applicable testing method used to satisfy the minimum coverage requirements under Code section 410(b). Check "N/A" if the plan is deemed to satisfy section 410(b) automatically, such as a plan in which no HCE is benefitting. Check all boxes that apply for a plan that tests different groups of employees on a disaggregated basis.

Line 20b. Check "Yes" if this plan was permissively aggregated with another plan to satisfy requirements under Code sections 410(b) and 401(a)(4). Generally, each single plan must separately satisfy the coverage and nondiscrimination requirements. However, an employer may designate two or more separate plans as a single plan for purposes of applying the ratio percentage test of Treasury Regulations section 1.410(b)–2(b)(2) or the nondiscretionary classification test of Treasury Regulations section 1.401(b)–4. Two or more plans that are permissively aggregated and treated as a single plan for purposes of the minimum coverage test of Code section 410(b) must also be treated as a single plan for purpose of the nondiscrimination test under Code section 401(a)(4). See Treasury Regulations sections 1.410(b)–7 and 1.401(a)(4)–(9) for more information.

Line 21. Check "Yes" if the plan does not satisfy any exceptions under Treasury Regulation section 1.401(a)26)–1(b) if it benefitted at least the lesser of: 50 employees of the employer, or the greater of: 40 percent of all employees of the employer, or 2 employees (or if there is only 1 employee, such employer). The definition of employer includes all related employers under Code sections 414(b), (c) or (m). In performing the participation tests, the employees who are excludable are generally the same as those who are excludable for purposes of performing coverage tests under Code section 410(b), see Treasury Regulation section 1.401(a)(26)–6. In addition, for most plans the definition of who is benefiting under the plan for the purposes of the participation tests is the same as the definition of benefiting employees for purposes of coverage tests under Code section 410(b), see Treasury Regulation section 1.401(a)(26)–5.

Line 22a. If a plan sponsor or an employer adopted a pre-approved plan that includes a master & prototype plan (a standardized or nonstandardized M&P) or a volume submitter plan, enter the date of the most recent favorable opinion or advisory letter issued by the IRS and the serial number listed on that favorable letter.

Line 22b. If it is an individually-designed plan and received a favorable determination letter from the IRS, enter the date of the most recent determination letter. Leave it blank if this individually-designed plan has never received a favorable determination letter.

Line 23a. A section 401(k) plan may (in accordance with the plan document) allow participants to receive hardship distributions under Code section 401(k)(2)(B)(i)(IV). A distribution from a participant's elective deferral account can only be made if the distribution is because of an immediate and heavy financial need, and the amount should be limited to what is necessary to satisfy that financial need. Hardship withdrawals are subject to income taxes and a 10% additional tax on distributions before age 59½". Employees who take a hardship distribution cannot repay it to the plan.

Line 23b. This is for a defined benefit plan or a money purchase pension plan only. Check "Yes" if the plan made any distributions during the plan year to employees who have attained age 62 and who were not separated from service when the distributions were made, as permitted under Code section 401(a)(36).

Note. Any distribution above made prior to age 59½ would be subject to an additional 10% tax under Code section 72(t).

Line 24. Check "Yes" if required minimum distributions were made to 5% owners who attained age 70½ and older. Required Minimum Distributions (RMDs) generally are minimum amounts that a retirement plan account owner must withdraw annually starting with the year that he or she reaches 70½ years of age or, if later, the year in which he or she retires. However, if the account owner is a 5% owner of the business sponsoring the retirement plan, the RMDs must begin once the account holder is age 70½, regardless of whether he or she is retired.

Line 25. Check "Yes" if the plan has ceased employer and/or employee contributions and prohibited entry by new participants.

ERISA Compliance Quick Checklist

Compliance with the Employee Retirement Income Security Act (ERISA) begins with knowing the rules. Plan administrators and other plan officials can use this checklist as a quick diagnostic tool for assessing a plan's compliance with certain important ERISA rules; it is not a complete description of all ERISA's rules and it is not a substitute for a comprehensive compliance review. Use of this checklist is voluntary, and it is not be filed with your Form 5500–SF.

If you answer "No" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Have you provided plan participants with a summary plan description, summaries of any material modifications of the plan, and annual summary financial reports or annual pension funding reports?
2. Do you maintain copies of plan documents at the principal office of the plan administrator for examination by participants and beneficiaries?
3. Do you respond to written participant inquires for copies of plan documents and information within 30 days?
4. Does your plan include written procedures for making benefit claims and appealing denied claims, and are you complying with those procedures?
5. Is your plan covered by fidelity bonds protecting the plan against losses due to fraud or dishonesty by persons who handle plan funds or other property?
6. Are the plan's investments diversified so as to minimize the risk of large losses?
7. If the plan permits participants to select the investments in their plan accounts, has the plan provided them with enough information to make informed decisions?
8. Has a plan official determined that the investments are prudent and solely in the interest of the plan's participants and beneficiaries, and evaluated the risks

associated with plan investments before making the investments?

9. Did the employer or other plan sponsor send participant contributions to the plan on a timely basis?

10. Did the plan pay participant benefits on time and in the correct amounts?

11. Did the plan give participants and beneficiaries 30 days advance notice before imposing a "blackout period" of at least three consecutive business days during which participants or beneficiaries of a 401(k) or other individual account pension plan were unable to change their plan investments, obtain loans from the plan, or obtain distributions from the plan?

If you answer "Yes" to any of the questions below, you should review your plan's operations because you may not be in full compliance with ERISA's requirements.

1. Has the plan engaged in any financial transactions with persons related to the plan or any plan official? (For example, has the plan made a loan to or participated in an investment with the employer?)

2. Has the plan official used the assets of the plan for his/her own interest?

3. Have plan assets been used to pay expenses that were not authorized in the plan document, were not necessary to the proper administration of the plan, or were more than reasonable in amount?

If you need help answering these questions or want additional guidance about ERISA requirements, a plan official should contact the U.S. Department of Labor Employee Benefits Security Administration office in your region or consult with the plan's legal counsel or professional employee benefit advisor.

Statutory Authority

Accordingly, pursuant to the authority in sections 101, 103, 104, 109, 110 and 4065 of ERISA and sections 6058 and 6059 of the Code, the Form 5500 Annual Return/Report and the instructions thereto are proposed to be amended as set forth herein.

Signed at Washington, DC, this 20th day of June 2016.

Phyllis C. Borzi,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

Signed at Washington, DC, this 20th day of June 2016.

Robert S. Choi, Director,

Employee Plans, Tax Exempt and Government Entities Division, Internal Revenue Service.

Signed at Washington, DC, this 20th day of June 2016.

W. Thomas Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2016–14893 Filed 7–11–16; 4:15 pm]

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FEDERAL REGISTER

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Part IV

The President

Proclamation 9469—Captive Nations Week, 2016
Proclamation 9470—Honoring the Victims of the Attack in Baton Rouge, Louisiana

Federal Register
Vol. 81, No. 140
Thursday, July 21, 2016

Presidential Documents

Title 3—

The President

Proclamation 9469 of July 18, 2016

Captive Nations Week, 2016

By the President of the United States of America

A Proclamation

Since our earliest days, the United States has worked to uphold the rights enshrined in our founding documents. The ideals that sparked our revolution find their truest expression in democracy, and our enduring belief in the right to self-govern is not limited to our borders—we believe the human impulse toward freedom is universal. During Captive Nations Week, we recognize the inherent dignity of all people, and we renew our support for those struggling under oppressive regimes and striving to secure the blessings of liberty for themselves and their posterity.

After World War II, America joined with other nations to remake the world—to rebuild, to forge a new international order, and to advance a more just and lasting peace. And following a decades-long Cold War, with strength and resolve and the power of our ideals, we rejoiced as an Iron Curtain was brought down and a new beginning was set in motion. But although more people live in democracies today—and despite the fact that we are witness to the most peaceful and prosperous era in human history—such progress is not inevitable, and dangerous forces threaten to pull the world backward.

We must bolster our commitment to upholding freedom and democracy wherever they are jeopardized. That means ensuring the people of Ukraine have the right to choose their own destiny and ensure their independence; it means helping the millions of those displaced from Syria seek a better and safer future, while continuing our efforts to bring an end to this brutal conflict and destroy ISIL. It also means discussing our differences with nations more directly. And we have opened a new chapter in our relationship with Cuba, which includes direct engagement with their government on human rights and steps to empower and create opportunity for the Cuban people.

Around the world, a new generation of young people—connected by technology and driven by idealism and a willingness to stand up for their beliefs—is calling for more accountability in government. As heirs to a struggle for freedom that has long defined our character, Americans must lead by example and chart new paths to liberty and opportunity. We will continue to stand for equality and dignity beyond our borders and encourage economic and political reforms that foster democracy. And we remain dedicated to leading and working with others to build security, prosperity, and justice, and to fighting for any person still suffering under the grasp of tyranny.

This week, let us rededicate ourselves to broadening democracy's reach and promoting its true pillars—the rule of law, fair elections, a free press, and a vibrant civil society. As we work to lift up the lives of those whose governments still rule by fear and intimidation, let us stay vigilant in defense of democratic values and the ideals that keep us free.

The Congress, by joint resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week of July of each year as "Captive Nations Week."

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, do hereby proclaim July 17 through July 23, 2016, as Captive Nations Week. I call upon the people of the United States to reaffirm our deep ties to all governments and people committed to freedom, dignity, and opportunity for all.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of July, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

[FR Doc. 2016–17438
Filed 7–20–16; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9470 of July 18, 2016

Honoring the Victims of the Attack in Baton Rouge, Louisiana

By the President of the United States of America

A Proclamation

As a mark of respect for the victims of the attack on police officers perpetrated on Sunday, July 17, 2016, in Baton Rouge, Louisiana, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, I hereby order that the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset, July 22, 2016. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of July, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

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